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IN THE
Supreme Court of the United States
OCTOBER TERM, 1964.

No. 245.

WATERMAN STEAMSHIP CORPORATION,

Petitioner,

v.

UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE
FIFTH CIRCUIT.

APPENDICES TO BRIEF FOR PETITIONER.

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APPENDIX A.

Statutes Involved.

(1) INTERNAL REVENUE CODE OF 1939, 26 U. S. C.

SEC. 23. DEDUCTIONS FROM GROSS INCOME.

In computing net income there shall be allowed as deductions:

(1) *Depreciation*.—A reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence)—

(1) of property used in the trade or business, • • •

(n) *Basis for Depreciation and Depletion*.—The basis upon which depletion, exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be as provided in section 114.

(26 U. S. C. 1952 ed., Sec. 23.)

SEC. 113. ADJUSTED BASIS FOR DETERMINING GAIN OR LOSS.

(a) *Basis (Unadjusted) of Property*.—The basis of property shall be the cost of such property; • • •

(b) *Adjusted Basis*.—The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis determined under subsection (a), adjusted as hereinafter provided.

(26 U. S. C. 1952 ed., Sec. 113.)

SEC. 114. BASIS FOR DEPRECIATION AND DEPLETION.

(a) *Basis for Depreciation.*—The basis upon which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 113(b) for the purpose of determining the gain upon the sale or other disposition of such property.

(26 U. S. C. 1952 ed., Sec. 114.)

- (2) **MERCHANT SHIP SALES ACT OF 1946**, c. 82, 60 Stat. 41, 50 U. S. C. Appendix 1952 ed., Sec. 1734 *et seq.*

Sec. 3. As used in this Act the term—

(a) "Commission" means the United States Maritime Commission.

(b) "War-built vessel" means an oceangoing vessel of one thousand five hundred gross tons or more, owned by the United States and suitable for commercial use—

(1) which was constructed or contracted for by or for the account of the United States during the period, beginning January 1, 1941, and ending with September 2, 1945; or

(2) which having been constructed during the period beginning September 3, 1939, and ending with September 2, 1945, was acquired by the United States during such period.

(c) "Prewar domestic cost," as applied to any type of vessel, means the amount determined by the Commission; and published by the Commission in the Federal Register, to be the amount for which a standard vessel of such type could have been constructed (without its national defense features) in the United States under normal conditions relating to labor, materials, and other elements of cost, obtaining on or about January 1, 1941. In no case shall the prewar

domestic cost of any type of vessel be considered to be greater than 80 per centum of the domestic war cost of vessels of the same type.

(d) "Statutory sales price," as applied to a particular vessel, means, in the case of a drycargo vessel, an amount equal to 50 per centum of the prewar domestic cost of that type of vessel, and in the case of a tanker, such term means an amount equal to 87½ per centum of the prewar, domestic cost of a tanker of that type, such amount in each case being adjusted as follows:

(1) If the Commission is of the opinion that the vessel is not in class, there shall be subtracted the amount estimated by the Commission as the cost of putting the vessel in class.

(2) If the Commission is of the opinion that the vessel lacks desirable features which are incorporated in the standard vessel used for the purpose of determining prewar domestic cost, and that the statutory sales price (unadjusted) would be lower if the standard vessel had also lacked such features, there shall be subtracted the amount estimated by the Commission as the amount of such resulting difference in statutory sales price.

(3) If the Commission is of the opinion that the vessel contains desirable features which are not incorporated in the standard vessel used for the purpose of determining prewar domestic cost, and that the statutory sales price (unadjusted) would be higher if the standard vessel had also contained such features, there shall be added the amount estimated by the Commission as the amount of such resulting difference in statutory sales price.

(4) There shall be subtracted, as representing normal depreciation, an amount computed by applying to the statutory sales price (determined without

regard to this paragraph) the rate of 5 per centum per annum for the period beginning with the date of the original delivery of the vessel by its builder and ending with the date of sale or charter to the applicant in question, and there shall also be subtracted an amount computed by applying to the statutory sales price (determined without regard to this paragraph) such rate not in excess of 3 per centum per annum in the case of a vessel other than a tanker, and not in excess of 4 per centum per annum in the case of a tanker, for such period or periods of war service as the Commission determines will make reasonable allowance for excessive wear and tear by reason of war service which cannot be or has not been otherwise compensated for under this subsection.

No adjustment, except in respect of passenger vessels constructed before January 1, 1941, shall be made under this Act which will result in a statutory sales price which (1) in the case of dry-cargo vessels (except Liberty type vessels) will be less than 35 per centum of the domestic war cost of vessels of the same type, (2) in the case of any Liberty type vessel will be less than $31\frac{1}{2}$ per centum of the domestic war cost of vessels of such type, or (3) in the case of a tanker will be less than 50 per centum of the domestic war cost of tankers of the same type. For the purposes of this Act, except section 5, all Liberty vessels shall be considered to be vessels of one and the same type.

(e) "Domestic war cost" as applied to any type of vessel means the average construction cost (without national defense features) as determined by the Commission, of vessels of such type delivered during the calendar year 1944, except in case of any type of vessel the principal deliveries of which were made after the calendar year 1944, there shall be used in lieu of such

year 1944 such period of not less than six consecutive calendar months as the Commission shall find to be most representative of war production costs of such type.

(f) "Cessation of hostilities" means the date proclaimed by the President as the date of the cessation of hostilities in the present war, or the date so specified in a concurrent resolution of the two Houses of the Congress, whichever is the earlier.

(g) "Citizen of the United States" includes a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 2 of the Shipping Act of 1916, as amended. The term "affiliated interest" as used in sections 9 and 10 of this Act includes any person affiliated or associated with a citizen applicant for benefits under this Act who the Commission, pursuant to rules and regulations prescribed hereunder, determines should be so included in order to carry out the policy and purposes of this Act.

(50 U. S. C. Appendix 195 ed., Sec. 1736)

Sec. 9. (a) A citizen of the United States who on the date of the enactment of this Act—

(1) owns a vessel which he purchased from the Commission prior to such date, and which was delivered by its builder after December 31, 1940; or

(2) is party to a contract with the Commission to purchase from the Commission a vessel, which has not yet been delivered to him; or

(3) owns a vessel on account of which a construction-differential subsidy was paid, or agreed to be paid, by the Commission under section 504 of the Merchant Marine Act, 1936, as amended and which was delivered by its builder after December 31, 1940; or

(4) is party to a contract with a shipbuilder for the construction for him of a vessel, which has not yet been delivered to him, and on account of which a construction-differential subsidy was agreed, prior to such date, to be paid by the Commission under section 504 of the Merchant Marine Act, 1936, as amended:

shall, except as hereinafter provided, be entitled to an adjustment in the price of such vessel under this section if he makes application therefor, in such form and manner as the Commission may prescribe, within sixty days after the date of publication of the applicable prewar domestic costs in the Federal Register under section 3(c) of this Act. No adjustment shall be made under this section in respect of any vessel the contract for the construction of which was made after September 2, 1945, under the provisions of title V (including section 504) or title VII of the Merchant Marine Act, 1936, as amended.

(b) Such adjustment shall be made as hereinafter provided, by treating the vessel as if it were being sold to the applicant on the date of the enactment of this Act, and not before that time. The amount of such adjustment shall be determined as follows:

(1) The Commission shall credit the applicant with the excess of the cash payments made upon the original purchase price of the vessel over 25 per centum of the statutory sales price of the vessel, as of such date of enactment. If such payment was less than 25 per centum of the statutory sales price of the vessel, the applicant shall pay the difference to the Commission.

(2) The applicant's indebtedness under any mortgage to the United States, with respect to the vessel shall be adjusted.

(3) The adjusted mortgage indebtedness shall be in an amount equal to the excess of the statutory

sales price of the vessel as of the date of the enactment of this Act over the sum of the cash payment retained by the United States under paragraph (1) plus the readjusted trade-in allowance (determined under paragraph (7)) with respect to any vessel exchanged by the applicant on the original purchase. The adjusted mortgage indebtedness shall be payable in equal annual installments thereafter during the remaining life of such mortgage with interest on the portion of the statutory sales price remaining unpaid at the rate of $3\frac{1}{2}$ per centum per annum.

(4) The Commission shall credit the applicant with the excess, if any, of the sum of the cash payments made by the applicant upon the original purchase price of the vessel plus the readjusted trade-in allowance (determined under paragraph (7)) over the statutory sales price of the vessel as of the date of the enactment of this Act to the extent not credited under paragraph (1).

(5) The Commission shall also credit the applicant with an amount equal to interest at the rate of $3\frac{1}{2}$ per centum per annum (for the period beginning with the date of the original delivery of the vessel to the applicant and ending with the date of the enactment of this Act) on the excess of the original purchase price of the vessel over the amount of any allowance allowed by the Commission on the exchange of any vessel on such purchase; the amount of such credit first being reduced by any interest on the original mortgage indebtedness accrued up to such date of enactment and unpaid. Interest so accrued and unpaid shall be canceled.

(6) The applicant shall credit the Commission with all amounts paid by the United States to him as charter hire for use of the vessel (exclusive of service, if any, required under the terms of the charter) under any charter party made prior to the

date of the enactment of this Act, and any charter hire for use accrued up to such date of enactment and unpaid shall be canceled; and the Commission shall credit the applicant with the amount that would have been paid by the United States to the applicant as charter hire for bare-boat use of vessels exchanged by the applicant on the original purchase (for the period beginning with date on which the vessels so exchanged were delivered to the Commission and ending with the date of the enactment of this Act).

(7) The allowance made to the applicant on any vessel exchanged by him on the original purchase shall be readjusted so as to limit such allowance to the amount provided for under section 8.

(8) There shall be subtracted from the sum of the credits in favor of the Commission under the foregoing provisions of this subsection the amount of any overpayments of Federal taxes by the applicant resulting from the application of subsection (c)(1), and there shall be subtracted from the sum of the credits in favor of the applicant under the foregoing provisions of this subsection the amount of any deficiencies in Federal taxes of the applicant resulting from the application of subsection (c)(1). If, after making such subtractions, the sum of the credits in favor of the applicant exceeds the sum of the credits in favor of the Commission, such excess shall be paid by the Commission to the applicant. If, after making such subtractions, the sum of the credits in favor of the Commission exceeds the sum of the credits in favor of the applicant, such excess shall be paid by the applicant to the Commission. Upon such payment by the Commission or the applicant, such overpayments shall be treated as having been refunded and such deficiencies as having been paid.

For the purposes of this subsection, the purchase price of a vessel on account of which a construction-differential subsidy was paid or agreed to be paid under section 504 of the Merchant Marine Act, 1936, as amended, shall be the net cost of the vessel to the owner.

(c) An adjustment shall be made under this section only if the applicant enters into an agreement with the Commission binding upon the citizen applicant and any affiliated interest to the effect that—

(1) depreciation and amortization allowed or allowable with respect to the vessel up to the date of the enactment of this Act for Federal tax purposes shall be treated as not having been allowable; amounts credited to the Commission under subsection (b)(6) shall be treated for Federal tax purposes as not having been received or accrued as income; amounts credited to the applicant under subsection (b)(5) and (6) shall be treated for Federal tax purposes as having been received and accrued as income in the taxable year in which falls the date of the enactment of this Act;

(2) the liability of the United States for use (exclusive of service, if any, required under the terms of the charter) of the vessel on or after the date of the enactment of this Act under any charter party shall not exceed 15 per centum per annum of the statutory sales price of the vessel as of such date of enactment; and the liability of the United States under any such charter party for loss of the vessel shall be determined on the basis of the statutory sales price as of the date of the enactment of this Act, depreciated to the date of loss at the rate of 5 per centum per annum; and .

(3) in the event the United States, prior to the termination of the existing national emergency

declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bareboat charter made, on or after the date of the enactment of this Act, the compensation to be paid to the purchaser, his receivers, and trustees, shall in no event be greater than 15 per centum per annum of the statutory sales price as of such date.

(d) Section 506 of the Merchant Marine Act, 1936, as amended, shall not apply with respect to (1) any vessel which is eligible for an adjustment under this section, or (2) any vessel described in clause (1), (2), (3), or (4) of subsection (a) of this section, the contract for the construction of which is made after September 2, 1945, and prior to the date of enactment of this Act.

(50 U. S. C. Appendix 1952 ed., Sec. 1742)

(3) RULES AND REGULATIONS OF THE MERCHANT SHIP SALES ACT OF 1946 (GENERAL ORDER 60)

TITLE 46—SHIPPING

CHAPTER II—UNITED STATES MARITIME COMMISSION

SUBCHAPTER F—MERCHANT SHIP SALES ACT OF 1946

**PART 299—RULES AND REGULATIONS, FORMS, AND
CITIZENSHIP REQUIREMENTS**

The Merchant Ship Sales Act of 1946 having been enacted on March 8, 1946, and the prewar domestic cost of vessels covered thereby being published in the Federal Register pursuant to such Act, in section 299.56 below, the Maritime Commission hereby invites applications under the provisions of the act and the following regulations. Subject to such provisions, the Maritime Commission will accept applications for the purchase or charter of vessels now under the jurisdiction and control of the Maritime Commission. (No charter agreement will be entered into prior to 60 days from the date of publication of the applicable prewar

domestic cost in the Federal Register, and no contract of sale to a non-citizen of a tanker or C-type vessel will be entered into within 90 days from publication date, except as provided in the act). Additional vessels will be available at such time as they may be transferred to the jurisdiction and control of the Maritime Commission. The prewar domestic cost of certain special types of vessels are not included in this publication, but will be published at a later date, after which applications for ships of such types will be entertained.

ORGANIZATION OF GENERAL ORDER 60

There are printed herein the regulations of the United States Maritime Commission for administration of the Merchant Ship Sales Act of 1946, and copies of certain necessary applications and forms.

The regulations and forms are organized and written so that a person interested in one particular phase of the act can acquire all necessary information from the pertinent subpart of the regulations and the applicable form.

General provisions and definitions at the beginning of the regulations should be consulted by all interested persons.

SUBPART A—GENERAL PROVISIONS

Sec.

299.1 Definitions:

- (a) Commission.
- (b) War-built vessel.
- (c) Dry-cargo vessel.
- (d) Prewar domestic cost.
- (e) Domestic war cost.
- (f) Statutory sales price.
- (g) Cessation of hostilities.
- (h) Citizen of the United States.
- (i) Affiliated interest.

- (j) Constructed or date constructed.
- (k) Act.
- (l) Regulations.
- (m) Secretary.
- (n) Working capital.
- (o) Net worth.
- (p) Preoperating and operating expenses.
- (q) Related company.

SUBPART E—ADJUSTMENT FOR PRIOR SALES TO CITIZENS.

299.51 Adjustment for prior sales to citizens.

- (a) Application.
- (b) Amendment of application.
- (c) Persons entitled to adjustment.
- (d) Amount of adjustment.
- (e) Condition of adjustment.
- (f) Method of adjustment.

SUBPART G—FORMS

- 299.71 Application to purchase war-built vessel.
- 299.76 Application for determination of allowance of credit for exchange of old vessel.
- 299.78 Offer of applicant to exchange vessel for allowance of credit on a vessel.
- 299.81 Application to charter a war-built vessel for bareboat use.
- 299.82 Uniform bareboat charter of a war-built dry-cargo vessel under the Merchant Ship Sales Act of 1946, "SHIP-SALESEMISE 303".
- 299.83 Application for transfer of a war-built vessel in settlement of a claim against the United States.
- 299.85 Application for transfer of another vessel for a vessel constructed in the United States since January 1, 1937, and which was taken for use by the United States.
- 299.87 Application for adjustment of purchase price of vessel purchased prior to March 8, 1946.
- 299.91 Application for the reconversion, or alteration or modification of a vessel.

AUTHORITY: Sections 299.1 to 299.91, inclusive, issued under Section 12 (d) of the Merchant Ship Sales Act of 1946 (60 Stat. 41).

SUBPART E—ADJUSTMENT FOR PRIOR SALES TO CITIZENS

299.51 *Adjustment for prior sales to citizens.* (a) *Application.* Within sixty days after the date of publication of the applicable prewar domestic costs in the Federal Register, any citizen of the United States, as defined in section 299.1 (h) of these regulations, who is entitled to an adjustment in the price of a vessel as provided for in paragraph (c) below, may apply to the Commission for such adjustment. The application to receive consideration must be substantially in the form prescribed by the Commission in section 299.87 of these regulations and shall be accompanied by applicant's own computation. Three executed copies and fifteen conformed copies of the application must be filed with the Secretary, United States Maritime Commission, Washington 25, D. C. Items or parts of items in the application which are inapplicable may be omitted. If any information called for by an applicable item is not furnished, an explanation of the omission shall be given. Detailed descriptions of exhibits need not be given. The applicant may furnish such relevant information as it may desire, in addition to that specified in the form.

(b) *Amendment of application.* Such application may be amended at any time before the Commission has acted upon it. Three executed copies and fifteen conformed copies of the amendment must be filed with the Secretary, United States Maritime Commission, Washington 25, D. C. Any information called for by the Commission from time to time shall be furnished as an amendment or amendments to the application. The applicant shall file from time to time as amendments any information necessary to keep current and correct, while the application is pending, the information contained therein or furnished in connection therewith.

(c) *Persons entitled to adjustment.* Any citizen of the United States, as defined in section 299.1 (h) of these regulations, who on March 8, 1946

(1) owned a vessel which he purchased from the Commission prior to such date and which was delivered by its builder after December 31, 1940; or

(2) was a party to a contract with the Commission to purchase from the Commission a vessel, which had not yet been delivered to him; or

(3) owned a vessel on account of which a construction differential subsidy was paid, or agreed to be paid, by the Commission under section 504 of the Merchant Marine Act, 1936, as amended, and which was delivered by its builder after December 31, 1940; or

(4) was a party to a contract with a shipbuilder for the construction for him of a vessel, which had not yet been delivered to him, and on account of which a construction-differential subsidy was agreed, prior to such date, to be paid by the Commission under section 504 of the Merchant Marine Act, 1936, as amended,

shall, except as hereinafter provided, be entitled to an adjustment in the price of such vessel as provided in paragraph (a) above. No adjustment will be made in respect to any vessel the contract for the construction of which was made after September 2, 1945; under the provisions of Title V (including section 504) or Title VII of the Merchant Marine Act, 1936, as amended.

(d) *Amount of adjustment.* An adjustment will be made, as hereinafter provided, by treating the vessel as if it were being sold to the applicant on March 8, 1946, and not before that time. The amount of such adjustment will be determined as follows:

(1) The Commission will credit the applicant, for the purposes of subparagraph (8) of this paragraph (d), with the excess of all cash payments made upon the original purchase price of the vessel over 25 per centum of the statutory sales price of the vessel as of March 8, 1946. If such payment was less than 25

percentum of the statutory sales price of the vessel, the applicant will pay the difference to the Commission.

(2) The applicant's indebtedness under any mortgage to the United States with respect to the vessel will be adjusted.

(3) The adjusted mortgage indebtedness will be in an amount equal to the excess of the statutory sales price of the vessel as of March 8, 1946, over the sum of the cash payment retained by the United States under subparagraph (1) plus the readjusted trade-in allowance (determined under subparagraph (7)) with respect to any vessel exchanged by the applicant on the original purchase. The adjusted mortgage indebtedness will be payable in equal annual installments thereafter during the remaining life of such mortgage with interest on the portion of the statutory sales price remaining unpaid at the rate of three and one-half ($3\frac{1}{2}\%$) percentum per annum.

(4) The Commission will credit the applicant, for the purposes of subparagraph (8), with the excess, if any, of the sum of the cash payments made by the applicant upon the original purchase price of the vessel plus the readjusted trade-in allowance (determined under subparagraph (7)) over the statutory sales price of the vessel as of March 8, 1946, to the extent not credited under subparagraph (1).

(5) The Commission will also credit the applicant, for the purposes of subparagraph (8), with an amount equal to interest at the rate of three and one-half ($3\frac{1}{2}\%$) percentum per annum (for the period beginning with the date of the original delivery of the vessel to the applicant and ending with March 8, 1946), on the excess of the original purchase price of the vessel over the amount of any allowance originally allowed by the Commission to the applicant on the exchange of any vessel on such purchase; the amount of such credit first being reduced by any interest on the original mortgage

indebtedness accrued up to such date of enactment and unpaid. Interest so accrued and unpaid will be cancelled.

(6) The applicant will credit the Commission, for the purposes of subparagraph (8), with all amounts paid by the United States to him as charter hire for the bareboat use of the vessel, whether the vessel was under time or bareboat charter, under any charter party made prior to March 8, 1946, and any charter hire for such use accrued up to such date and unpaid shall be canceled; and the Commission will credit the applicant, for the purposes of subparagraph (8) with the amount that would have been paid by the United States to the applicant as charter hire for bareboat use of vessels exchanged by the applicant on the original purchase (for the period beginning with date on which the vessels so exchanged were delivered to the Commission and ending with March 8, 1946.).

(7) The allowance made to the applicant on any vessel exchanged by him on the original purchase will be readjusted so as to limit such allowance to the amount provided for under Section 299.22 of these regulations.

(8) There will be subtracted from the sum of the credits in favor of the Commission under the foregoing provisions of this subparagraph the amount of any overpayments of Federal taxes by the applicant resulting from the application of paragraph (e) (1), and there will be subtracted from the sum of the credits in favor of the applicant under the foregoing provisions of this subparagraph the amount of any deficiencies in Federal taxes of the applicant resulting from the application of said paragraph (e) (1). If, after making such subtractions, the sum of the credits in favor of the applicant exceeds the sum of the credits in favor of the Commission, such excess will be paid by the Commission to the applicant. If, after making such subtractions, the sum of the credits in favor of the Commission

exceeds the sum of the credits in favor of the applicant, such excess will be paid by the applicant to the Commission. Upon such payment by the Commission or the applicant, such overpayments will be treated as having been refunded and such deficiencies as having been paid.

For the purpose of this paragraph (d), the purchase price of a vessel on account of which a construction-differential subsidy was paid or agreed to be paid under section 504 of the Merchant Marine Act, 1936, as amended, will be the net cost of the vessel to the owner.

(e) *Condition of adjustment.* An adjustment will be made under this section only if the applicant enters into an agreement with the Commission binding upon the citizen-applicant and any affiliated interest to the effect that

(1) depreciation and amortization allowed or allowable with respect to the vessel up to March 8, 1946, for Federal tax purposes shall be treated as not having been allowable; amounts credited to the Commission under paragraph (d) (6) of this section shall be treated for Federal tax purposes as not having been received or accrued as income; amounts credited to the applicant under paragraph (d) (5) and (6) of this section shall be treated for Federal tax purposes as having been received and accrued as income in the taxable year in which falls March 8, 1946;

(2) the liability of the United States for use (exclusive of service, if any, required under the terms of the charter) of the vessel on or after March 8, 1946, under any charter party shall not exceed 15 per centum per annum of the statutory sales price of the vessel as of March 8, 1946; and the liability of the United States under any such charter party for loss of the vessel shall be determined on the basis of the statutory sales price as of March 8, 1946, depreciated to the date of loss at the rate of 5 per centum per annum; and

(3) in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bareboat charter made, on or after March 8, 1946, the compensation to be paid to the purchaser, his receivers, and trustees, shall in no event be greater than 15 per centum per annum of the statutory sales price as of March 8, 1946.

(f) *Method of Adjustment.* If the Commission finds that applicant is entitled to an adjustment, applicant will be notified of the adjusted purchase price determined by the Commission. Unless the applicant notifies the Commission to the contrary within 15 days following the date of receipt by the applicant of the Commission's determination of adjusted purchase price, this adjusted purchase price will be binding upon the applicant and it agrees to execute an addendum to its original contract to purchase, which addendum will be sent to him by the Commission.

SUBPART G—FORMS

299.87 Application for adjustment of purchase price of vessel purchased prior to March 8, 1946. The form of application for such adjustment shall be substantially as follows:

APPLICATION FOR ADJUSTMENT OF PURCHASE PRICE
Filed by

a citizen of the United States

The undersigned hereby applies for an adjustment in the purchase price of the _____

(insert name of vessel)

(herein called the "vessel") in accordance with the provisions of the Merchant Ship Sales Act of 1946, Public Law 321, 79th Cong., 2d sess., approved March 8, 1946 (herein

called the "Act"), and the rules and regulations prescribed by the United States Maritime Commission (herein called the "Commission"), Section 299.1 to 299.91, inclusive, of General Order 60, published in the Federal Register April 23, 1946 (herein called the "regulations"), which the applicant agrees shall be binding upon all transactions in connection with this application. Applicant also agrees that any amendment or modification of the rules and regulations shall be binding upon all transactions approved by the Commission after the date of publication of such amendment or modification in the Federal Register.

The applicant further agrees that upon request of the Commission it will promptly furnish for the taxable years, specified by the Commission copies of Federal income and excess profit taxes returns, any audits thereof made by the Bureau of Internal Revenue, copies of any refund or other claims filed in connection with such returns and other pertinent data necessary in order for the Commission to make the tax adjustments required by the Act, and consents to the Commission being given full access to any other records, audits, claims or other data on file with the Bureau of Internal Revenue.

In order to induce the Commission to act favorably on this application, the applicant submits in support thereof the following information.

A. As to the Applicant:

1. Exact name.
2. Form or type of organization.
3. State or other sovereign power under the laws of which organized.
4. Address of principal executive offices.
5. Applicant represents that it is a citizen of the United States and attaches to the three executed copies of this application, affidavits to that effect in the form prescribed by the Commission.

B. As to the vessel:

6. Name of vessel.
7. Name and address of builder.
8. Commission hull no.
9. Builder's hull no.
10. Date of original delivery of the vessel. If not delivered, state estimated date of delivery.
11. Date of contract of sale under which the vessel was purchased or agreed to be purchased.
12. Date of contract of the Commission to pay construction-differential subsidy
No. of such subsidy contract
13. Cost of construction of vessel.
14. Price paid by applicant or agreed to be paid (net cost to the applicant).
15. Amounts and dates of cash payments by applicant in 14 above.
16. Amounts and due dates of remaining payments under any mortgage, with the United States and total amount of original mortgage indebtedness.

C. As to any charter prior to March 8, 1946 of the vessel to the United States:

17. No. of charter agreement.
18. Type (time or bareboat).
19. Amount (exclusive of service) of charter hire paid to the applicant by the United States.
20. Amount (exclusive of service) of charter hire accrued and unpaid to March 8, 1946.

D. As to any vessel traded-in on the purchase of vessel:

21. Answer questions 3 and 4 of Section 299.76.

22. Amount of original allowance by Commission on vessel traded-in.

23. No. of any charter agreement of such vessel with the United States.

E. As to Federal taxes paid by the applicant:

24. The amount allowed or allowable to applicant for depreciation or amortization allowed or allowable with respect to the vessel up to March 8, 1946 for Federal tax purposes.

25. Amounts paid as Federal taxes by the applicant on any charter hire (exclusive of service) paid or payable by the United States to the applicant for use of the vessel.

F. Method of adjustment:

26. Applicant understands that if the Commission finds that applicant is entitled to an adjustment, applicant will be notified of the adjusted purchase price determined by the Commission. Applicant agrees that unless it notifies the Commission to the contrary within 15 days following the date of receipt by the applicant of the Commission's determination of adjusted purchase price, this adjusted purchase price will be binding upon the applicant and it agrees to execute an addendum to its original contract to purchase, which addendum will be sent to him by the Commission.

G. Liability for use of vessel after March 8, 1946:

27. Applicant agrees, in the addendum to its original contract of sale as provided in item 26 above, that it will make an agreement with the Commission binding upon itself and any and all affiliated interests that the liability of the United States for use (exclusive of service, if any, required under the terms of the charter) of the Vessel on and after March 8, 1946 under any charter party shall not exceed 15 per centum per annum

of the statutory sales price of the vessel as of such date, and that the liability of the United States under any such charter party for the loss of the Vessel shall be determined on the basis of the statutory sales price as of such date, depreciated to the date of loss at the rate of 5 per centum per annum and that in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bareboat charter made, on or after March 8, 1946, the compensation to be paid to the purchaser, his receivers, and trustees, shall in no event be greater than 15 per centum per annum of the statutory sales price as of such date.

H. As to exhibits filed:

28. A list of exhibits, properly identified, which shall include at the time of original filing, the following:

Exhibit I—Applicant's own computation of the re-adjustment of the purchase price of his vessel in accordance with Section 299.51 of the regulations. This shall be prepared by computing the adjusted mortgage indebtedness and identifying and totaling all credits and debits to the Commission and the applicant separately.

(CORPORATE SEAL)

Attest:

(Secretary)

(Date)

(Name of applicant)

By _____

(President)

APPENDIX B.

Prior Bills to Act.

(1)

[H. R. 4486, 78th Cong., 2d sess.]

A BILL To provide for the sale of certain Government-owned merchant vessels, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of further carrying out the policies declared in section 101 and the objectives set forth in section 210 of the Merchant Marine Act, 1936, as amended, and facilitating the adjustment of the merchant marine from war service to peacetime operations, the United States Maritime Commission, notwithstanding any other provisions of law, is authorized to sell and charter any vessel (1) constructed by the Maritime Commission or constructed under contracts executed on behalf of the Maritime Commission during the period commencing January 1, 1941, and ending on such date as the Maritime Commission shall fix, but in no event later than one year after termination of the present war, and (2) any vessel transferred to or otherwise acquired by the Maritime Commission constructed within the continental limits of the United States during such period, under the following terms and conditions:

(a) The Maritime Commission shall determine the cost to the United States of any such vessel based on the average construction cost of vessels of a comparable type construction during the period aforesaid.

(b) From such actual cost as determined in paragraph (a) of this section of any vessel sold, there shall be deducted the following in determining the purchase price of such vessel:

(1) The amount determined by the Maritime Commission as representing the actual cost to the United States of installing national defense or war service features in the vessel;

(2) The amount representing the depreciation of the vessel based upon a twenty-year life, including such additional amount determined by the Maritime Commission, after survey, as representing accelerated depreciation by reason of war service, but in no event shall the accelerated depreciation exceed the rate of $2\frac{1}{2}$ per centum per annum; and

(3) Thirty-five per centum of the remainder calculated as above, which amount represents the excess percentage-cost of constructing the vessel in the United States at the time of its construction over such cost had the vessel been constructed under normal peacetime conditions.

(c) Any such vessel may, in the discretion of the Commission, be sold to a citizen of the United States for operation in the foreign or domestic trade (excepting vessels engaged solely in the transportation of property on inland rivers and canals exclusively), at a price not less than the amount determined under paragraph (a) minus the amount of deductions determined under paragraph (b) hereof, or may be chartered bareboat for a fair rate, but not less than $8\frac{1}{2}$ per centum per annum of said sales price. Payment of the sales price shall be made and secured as provided in section 509 of the Merchant Marine Act, 1936, as amended, and every bareboat charter shall include the provisions contained in section 712 of the Merchant Marine Act, 1936, as amended.

(d) In case of an application for purchase of any such vessel by an applicant for a construction-differential subsidy therefor under the provisions of the Merchant Marine Act, 1936, as amended, the construction-differential subsidy may, in the discretion of the Commission, be equal to, but shall not exceed, 50 per centum of the sales price of the

vessel as determined by the Commission under the provisions of this Act during the period ending three years after the termination of the present war or such earlier date as the Commission shall find that reasonably adequate data are available with respect to contemporaneous foreign construction cost.

(e) In case of any vessel which was sold or agreed to be sold for delivery subsequent to December 31, 1941, and before the date of enactment of this Act, the sales price of such vessel and any construction-differential subsidy granted in connection therewith may be adjusted and settled in conformity with the applicable provisions of paragraphs (a), (b), and (c) hereof, but in cases of vessels sold in connection with a trade-in allowance granted under section 510 of the Merchant Marine Act, 1936, as amended, adjustment under the provisions of paragraphs (a) and (b) hereof shall be made only in proportion to the excess of the new tonnage sold over the old tonnage traded in on the purchase.

(f) In case of the sale of a vessel to a purchaser for operation in the coastwise, intercoastal, or other domestic trade of the United States, the terms of sale may, under such terms and conditions as the Maritime Commission shall prescribe, provide for payment of the sales price on terms not more favorable to the purchaser than the following: (1) a down payment in cash of $12\frac{1}{2}$ per centum; (2) deferred payments, at the rate of one-twentieth per annum, of not less than $37\frac{1}{2}$ per centum of such sales price, with interest on unpaid balance at $3\frac{1}{2}$ per centum per annum, secured by a first preferred mortgage on the vessel and otherwise as the Commission may determine; and (3) the payment of not more than 50 per centum of the sales price in earnings debentures, bearing interest at $3\frac{1}{2}$ per centum per annum, and further secured by a preferred mortgage on the vessel and otherwise as the Maritime Commission may determine.

(g) In case of sale to a purchaser not a citizen of the United States (herein used as defined in the Merchant

Marine Act, 1936, as amended) for payment of the sales price in cash.

(h) There shall be included in every contract for the sale of a vessel under this Act provisions that in the event the United States shall, through purchase or requisition, reacquire ownership of the vessel, payment or other compensation from the United States for such vessel shall be computed in accordance with the requirements of section 802 of the Merchant Marine Act, 1936, as amended, on the basis of the price at which the vessel was sold, whether or not a construction-differential subsidy shall have been paid or granted in respect of such vessel under the Merchant Marine Act, 1936, as amended, and that in the event of taking of the use of such vessel, charter hire or other compensation for the bareboat use thereof shall be based on the reasonable value of such use but at a rate not more than $8\frac{1}{2}$ per centum per annum of the price at which the vessel was sold hereunder.

SEC. 2. The Maritime Commission is authorized to reconvert or restore for commercial operation, including removal of national defense or war service features, any vessel authorized to be sold or chartered under the terms and conditions of section 1 thereof. The cost and expense thereof shall be considered as war costs and may be paid from the construction fund of the Maritime Commission, or, in lieu thereof, may be allowed on the purchase price of the vessel by way of deduction, credit, or otherwise.

SEC. 3. All moneys received by the Maritime Commission under this Act shall be deposited in the construction fund of the Maritime Commission, and all disbursements made by the Maritime Commission in carrying out this Act shall be paid from such fund. The provisions of sections 201 (d), 204 (b), 207, 209 (a), and 905 (c) of the Merchant Marine Act, 1936, as amended, shall apply to all activities and functions which the Commission is authorized to perform under this Act.

(2)

[H. R. 5213, 78th Cong., 2d sess.]

A BILL To provide for the sale of certain Government-owned merchant vessels, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of further carrying out the policies declared in section 101 and the objectives set forth in section 210 of the Merchant Marine Act, 1936, as amended, and facilitating the adjustment of the merchant marine from war service to peacetime operations, the United States Maritime Commission, whenever in its discretion it will aid in carrying out such policies and objectives, notwithstanding any other provision of law, is authorized to sell or charter any vessel, other than a vessel of which any other department or agency of the United States Government has the right to control, custody, or possession, until such vessel is determined by such department or agency to be surplus to its needs or is returned or transferred to the Commission, which has been (1) constructed by the Maritime Commission or constructed under contracts executed on behalf of the Maritime Commission during the period commencing January 1, 1941, and ending on such date as the Maritime Commission shall fix, but in no event later than one year after termination of the present war, or (2) transferred to or otherwise acquired by the Maritime Commission that was constructed within the continental limits of the United States during such period, under the following terms and conditions:

(a) The Maritime Commission shall estimate, and from time to time shall publish in the Federal Register, base costs applicable to each type of such vessels in the following manner:

(1) For vessels constructed under Maritime Commission contracts for which pre-war construction cost data are available from construction before January 1, 1942, the base cost for each type shall be determined by

the Commission on the basis of the average construction costs of vessels constructed in the period beginning January 1, 1937, and ending December 31, 1941, but exclusive of special features and modifications from standard design;

(2) For vessels of any types other than the Liberty type for which pre-war construction cost data under Maritime Commission contracts are not available by reason of no such vessels having been so constructed before January 1, 1942, the base costs shall be determined by the Commission on the basis of its estimate of the cost of each such type as if constructed under the average conditions as related to labor, material, and other costs obtained in the period beginning January 1, 1937, and ending December 31, 1941;

(3) For vessels of the Liberty type the base cost shall be at the rate of \$100 per dead-weight ton.

(b) In fixing the price or value of any such vessels for sale or charter purposes under this Act, the Maritime Commission shall adjust the base type cost as determined under paragraph (a) of this section by increase or decrease on account of modifications or special features as if constructed under average conditions in the period beginning January 1, 1937, and ending December 31, 1941. From such adjusted cost there shall be deducted the following in fixing the minimum sale price or valuation for purposes of charter:

(1) The amount determined by the Maritime Commission as representing the actual cost to the United States of national defense or war service features in the vessels to the extent that such cost has been included in the cost determined under paragraphs (a) and (b), plus the cost determined by the Commission as necessary to place the vessel in condition for normal operation in commercial services unless paid for or allowed by the Commission under section 2 hereof;

(2) The amount representing the depreciation of the vessel based upon a twenty-year life, including such additional amount determined by the Maritime Commission, after survey, as representing accelerated depreciation by reason of war service, but in no event shall the additional accelerated depreciation exceed the rate of $2\frac{1}{2}$ per centum per annum.

(c) Any such vessel may, in the discretion of the Commission, be sold to a citizen of the United States for operation in the foreign or domestic trade (excepting vessels engaged solely in the transportation of property on inland rivers and canals exclusively), at a price not less than the amount determined under paragraph (a) minus the amount of deductions determined under paragraph (b) hereof, or may be chartered bareboat to a citizen of the United States for such operation for a fair rate, but not less than $12\frac{1}{2}$ per centum per annum of said sales price, except under special circumstances upon the affirmative vote of four members of the Commission. Payment of the sales price shall be made and secured as provided in section 509 of the Merchant Marine Act, 1936, as amended, with respect to vessels of 14 knots speed or over notwithstanding that the vessel may be of lesser speed, and every bareboat charter shall include the provisions contained in sections 709, 710, 712, and 713 of the Merchant Marine Act, 1936, as amended.

(d) In case of an application for purchase of any such vessel with the aid of a construction-differential subsidy under title V of the Merchant Marine Act, 1936, as amended, or for the charter thereof with option to purchase under section 714 of said Act (except a Liberty type of vessel for which no construction-differential subsidy shall be allowed and which shall not be chartered under section 714), the construction-differential subsidy may, for the purposes of such sale or charter and option to purchase, in the discretion of the Commission, be equal to, but shall not exceed, 50 per centum of the sales price of the vessel as determined by the Commission under the provisions of

this Act during the period ending three years after the termination of the present war or such earlier date as the Commission shall find that reasonably adequate data are available with respect to contemporaneous foreign construction cost: *Provided, however,* That the sales price of any vessel under the provisions of this paragraph (d) shall not be less than the cost of constructing the vessel in a foreign shipbuilding center as determined by the Commission pursuant to the provisions of the joint resolution approved June 11, 1940, as extended (54 Stat. 306; 55 Stat. 148; 56 Stat. 370).

(c) In case of any vessel which was sold or agreed to be sold for delivery subsequent to December 31, 1941, and before the date of enactment of this Act, the sales price of such vessel and any construction-differential subsidy granted in connection therewith may be adjusted and settled in conformity with the applicable provisions of paragraphs (a), (b), and (c) hereof, but in making any such adjustment and settlement, the Commission shall take into consideration the amount of credit allowed by the Commission on any obsolete vessel traded in as part of the purchase price of the new vessel under the provisions of section 510 of the Merchant Marine Act, 1936, as amended, in excess, if any, of the market value of such obsolete vessel, as determined by the Commission, for operation in the world trade or in the foreign or domestic trade of the United States between January 1, 1939, and September 1, 1939, and any special amortization taken by the purchaser of the new vessel under the provisions of section 124 of the Internal Revenue Code.

(f) In case of the sale of a vessel (other than a Liberty type vessel) to a purchaser for operation in the coastwise, intercoastal, or other domestic trade of the United States, the terms of sale may, under such terms and conditions as the Maritime Commission shall prescribe, provide for payment of the sales price on terms not more favorable to the purchaser than the following: (1) a down payment in cash of 12½ per centum; (2) deferred payments, at the rate of

one-twentieth per annum, of not less than $37\frac{1}{2}$ per centum of such sales price, with interest on unpaid balance at $3\frac{1}{2}$ per centum per annum, secured by a first preferred mortgage on the vessel and otherwise as the Commission may determine; and (3) the payment of not more than 50 per centum of the sales price in earnings debentures maturing not later than twenty years after the date thereof, bearing interest at $3\frac{1}{2}$ per centum per annum, and further secured by a preferred mortgage on the vessel and otherwise as the Maritime Commission may determine. Such debentures and any mortgage securing such debentures shall provide for the establishment of a special sinking fund to be administered in accordance with rules and regulations to be prescribed by the Commission, and shall be subject to such provision as the Commission may deem to be necessary for the protection of the Government, including provision for insurance and restrictive of the transfer of title to the vessel. Into this special sinking fund the purchaser shall deposit annually or at such lesser intervals as the Commission may require one-half of the total voyage profits derived from the vessel's operation as determined by the Commission in accordance with rules and regulations prescribed by it, after deducting from such voyage profits the following: (A) An allowance for overhead expense as agreed upon between the purchaser and the Commission which allowance shall be appropriate to the character of service in which the vessel operates and shall be subject to re-determination by the Commission not more frequently than annually and shall be not more than 12 per centum nor less than 8 per centum of the gross revenue derived from the vessel's operation; (B) the interest paid by the purchaser on the first preferred mortgage notes issued under (2) above; and (C) an amount equal to 10 per centum of the sum of the down payment and the deferred payments authorized under (1) and (2) above. If with respect to any annual period the deductions authorized under (A), (B), and (C) hereof exceed the voyage profit for such period, an amount equal to such excess may with the approval of the Commission be withdrawn from the special sinking fund and paid into the general funds of the purchaser. There shall also be paid

into the special sinking fund the proceeds of any sale of the vessel and the proceeds of all insurance and indemnities received by the purchaser on account of total loss of the vessel less such portion thereof as may be payable to the mortgagee under the first preferred mortgage on the vessel and less the amount of tax upon the capital gain, if any, resulting from such proceeds and indemnities. The Commission shall at all times have a prior lien upon moneys in the special sinking fund and obligated to be deposited therein for the satisfaction of the first preferred mortgage and debenture notes but may in its discretion limit the liability of the purchaser under the debentures to the collateral thereunder. At the end of each ten-year period, or at such shorter intervals as may be agreed upon between the purchaser and the Commission, or in the event of the sale or the total loss of the vessel, the amount then remaining in the special sinking fund (including amounts obligated for deposit therein) or so much thereof as does not exceed the unpaid principal of the debentures and accrued interest thereon shall be paid to the Commission and applied to such debentures, and the balance, if any, may, with the permission of the Commission, or upon maturity shall, be paid into the general funds of the purchaser. With respect to any vessel purchased under the terms of this paragraph (f), the sum of the down payment and the deferred payments authorized under (1) and (2) hereof shall constitute the basis for determining gain or loss and for depreciation for the purposes of Federal income and excess-profits taxes, and moneys, withdrawn from the special sinking fund and paid into the general funds of the purchaser shall be taxable as if earned during the year of such withdrawal, but earnings deposited in the special sinking fund shall otherwise be exempt from all Federal taxes.

(g) In the case of the sale of a Liberty type vessel to a purchaser for operation in the coastwise, intercoastal, or other domestic trade of the United States, if the sales price thereof be determined in accordance with paragraphs (a)

and (b) hereof, payment of the sales price shall be made and secured as provided in section 509 of the Merchant Marine Act, 1936, as amended: *Provided, however,* That the purchaser thereof may, at his option, enter into contract with the Commission to make payment in the manner and subject to the conditions of paragraph (f) hereof in which case the purchase price, for the purposes of paragraph (f) shall be fixed by the Commission on the basis of a base cost per dead-weight ton equal to one and one-half times the base cost authorized by paragraph (a) (3) hereof.

(h) In case of sale to a purchaser not a citizen of the United States (herein used as defined in the Merchant Marine Act, 1936, as amended) for payment of the sales price in cash.

(i) There shall be included in every contract for the sale of a vessel under this Act provisions that in the event the United States shall, through purchase or requisition, reacquire ownership of the vessel, payment or other compensation from the United States for such vessel shall be computed in accordance with the requirements of section 802 of the Merchant Marine Act, 1936, as amended, on the basis of the price at which the vessel was sold, whether or not a construction-differential subsidy shall have been paid or granted in respect of such vessel under the Merchant Marine Act, 1936, as amended, and that in the event of taking of the use of such vessel, charter, hire, or other compensation for the bareboat use thereof shall be based on the reasonable value of such use but at a rate not more than 15 per centum per annum of the price at which the vessel was sold hereunder.

SEC. 2. The Maritime Commission is authorized to reconvert or restore for commercial operation, including removal of national defense or war service features, any vessel authorized to be sold or chartered under the terms and conditions of section 1 hereof. The cost and expense thereof shall be considered as war costs and may be paid from the construction fund of the Maritime Commission,

or, in lieu thereof, may be allowed on the purchase price of the vessel by way of deduction, credit, or otherwise.

SEC. 3. All moneys received by the Maritime Commission under this Act shall be deposited in the construction fund of the Maritime Commission, and all disbursements made by the Maritime Commission in carrying out this Act shall be paid from such fund. The provisions of sections 201 (d), 204 (b), 207, 209 (a), and 905 (c) of the Merchant Marine Act, 1936, as amended, shall apply to all activities and functions which the Commission is authorized to perform under this Act.

(3)

SUBSTITUTE TEXT

[H. R. 5213, 78th Cong., 2d sess.]

A BILL To provide for the sale of certain Government-owned merchant vessels, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) whenever in the discretion of the Commission it will aid in further carrying out the policies declared in section 101 and the objectives set forth in section 210 of the Merchant Marine Act, 1936, as amended, and will facilitate the adjustment of the merchant marine from war service to peacetime operations, the United States Maritime Commission, notwithstanding any other provision of law, is authorized to sell or charter under the terms and conditions of this Act any oceangoing vessel of two thousand gross tons or more, which has been (1) constructed by the Commission or constructed under contracts executed on behalf of the Commission, during the period commencing January 1, 1941, and ending on such date as the Commission shall fix but in no event later than one year after the termination of the present war, or (2) transferred to or otherwise acquired

by the Commission that was constructed within the continental limits of the United States during such period. In case of any such vessel which the Commission determines by the affirmative vote of four members to be not economically suited for general use in the carriage of commodities or general commercial operation, the Commission may, pursuant to such determination, exclude such vessel from the application of this Act and dispose of it under any other applicable provision of law, subject however to such conditions on the use thereof by the purchaser or charterer as to routes, trades, and commodities as the Commission may prescribe. No vessel otherwise subject to this Act, of which any other department or agency of the United States Government has the right to control, custody, or possession, shall be sold or chartered under this Act until such vessel is determined by such department or agency to be surplus to its needs or is returned or transferred to the Commission.

(b) As used in this Act—

(1) The term "Commission" means the United States Maritime Commission;

(2) The term "termination of the present war" means such time as may be fixed by proclamation or such earlier time as the Congress by concurrent resolution or the President may designate;

(3) The term "citizen of the United States" has the same meaning as when used in the Merchant Marine Act, 1936, as amended.

(c) This Act may be cited as the "Merchant-Ship Sales Act, 1944."

DETERMINATION OF DOMESTIC AND FOREIGN COST

SEC. 2. (a) For the purposes of this Act the Commission shall from time to time estimate and publish in the Federal Register for vessels to which section 1 applies, pre-war domestic costs and pre-war foreign costs as follows:

(1) For vessels constructed under Commission contracts for which pre-war construction-cost data are available with respect to construction before January 1, 1941, the pre-war domestic cost shall be determined by the Commission on the basis of the average construction costs of vessels constructed in the period beginning January 1, 1937, and ending December 31, 1940.

(2) For vessels of any type for which pre-war construction cost data under Commission contracts are not available by reason of no such vessels having been so constructed before January 1, 1941, the pre-war domestic cost shall be determined by the Commission on the basis of its estimate of the cost as if constructed under average conditions relating to labor, material, and other elements of cost obtaining in the period beginning January 1, 1937, and ending December 31, 1940.

(3) The pre-war foreign cost shall be determined by the Commission on the basis of its estimate of the cost of similar construction in a foreign country deemed by it to be substantially representative of foreign construction costs under conditions existing during the period prior to September 3, 1939, or in the discretion of the Commission, may, except in the case of Liberty-type vessels, be fixed at (but shall be not less than) 50 percent of the pre-war domestic cost as determined or fixed for the vessel under the preceding provisions of this subsection.

(4) Such pre-war domestic cost and pre-war foreign cost shall be inclusive of special features and betterments required for commercial operation on trade routes or services, but exclusive of national defense features and exclusive of the cost of restoring the vessel to condition for commercial operation.

(b) For the purpose of determining depreciated pre-war domestic or foreign costs of any such vessel to which section 1 applies, depreciation shall be computed on the basis of a twenty-year life for the vessel with such addi-

tional amount as shall be determined by the Commission after survey, as representing accelerated depreciation by reason of war service at a rate not to exceed $2\frac{1}{2}$ per centum per annum.

SALE AND CHARTER OF VESSELS TO CITIZENS

SEC. 3. (a) Any vessel to which section 1 applies may, in the discretion of the Commission, be sold to a citizen of the United States, for any type of operation in the foreign or domestic trade of the United States without restriction as to services, routes, or sailing schedules at a sales price not less than the depreciated pre-war domestic cost determined under section 2.

(b) Any vessel to which section 1 applies, other than a tanker, may, in the discretion of the Commission, be sold to a citizen of the United States at the depreciated pre-war foreign cost for operation solely on a specified trade route or routes in the foreign commerce of the United States, or for operation solely in the domestic commerce of the United States, or subject to an agreement that the vessel shall not without the consent of the Commission enter into any trade route established by the Commission as essential to the foreign commerce of the United States.

(c) Tankers to which section 1 applies may, in the discretion of the Commission, be sold to a citizen of the United States at the depreciated pre-war foreign cost for operation in the foreign trade of the United States (without regard to route or service) subject to the conditions that (1) the tanker may with the approval of the Commission be used in the domestic trade of the United States and (2) if so used in the domestic trade, there shall be an adjustment made with respect to the difference between the depreciated pre-war domestic cost and the depreciated pre-war foreign cost in the same manner as provided with respect to the adjustment under section 506 of the Merchant Marine Act, 1936, as amended, in cases where a vessel constructed and sold under title V of that Act for use in foreign trade is used in domestic trade. In case of a

tanker sold under this subsection or under subsection (a) of this section, the Commission may permit the operation of such tanker in commerce between foreign countries.

(d) The purchaser of a vessel under this section shall, subject to the provisions of the Act, pay to the Commission not less than 25 per centum of the purchase price of such vessel and the balance if any of such purchase price shall be payable under amortization provisions satisfactory to the Commission requiring periodic payments, with interest at $3\frac{1}{2}$ per centum per annum, secured by a preferred mortgage on the vessel sold and otherwise as the Commission may determine.

(e) Any vessel to which section 1 applies, other than a tanker, may in the discretion of the Commission be demised on bare-boat charter to citizens of the United States without advertisement or competition for a fair rate of charter hire, which rate, except under special circumstances upon the affirmative vote of four members of the Commission, shall, if the vessel is demised for operation without restriction as to route or service, be not less than 9 per centum per annum upon the pre-war domestic cost determined in accordance with subsection (a) of section 2 plus $3\frac{1}{2}$ per centum of the depreciated domestic cost computed annually upon the basis of a twenty-year life of the vessel, or if demised for operation restricted to specified routes and services prescribed by the Commission, shall be not less than 9 per centum of the pre-war foreign cost as determined in accordance with subsection (a) of section 2, plus $3\frac{1}{2}$ per centum of the depreciated domestic cost computed annually upon the basis of a twenty-year life of the vessel. The provisions of sections 708, 709, 710, 712, and 713 of the Merchant Marine Act, 1936, as amended, shall be applicable to charters made under authority of this subsection.

(f) In the event that the demand for purchase or charter of vessels under this section is at any time in excess of the number of such vessels available for disposition under this section, sales or charters under this Act may be made in such order as the Commission may deem appropriate to

best carry out the policies and purposes of the Merchant Marine Act, 1936.

SALES OF VESSELS NOT NEEDED FOR UNITED STATES
COMMERCE OR DEFENSE

SEC. 4. (a) Any vessel to which section 1 applies and which the Commission finds to be not necessary for the domestic or foreign commerce of the United States and after consultation with the Secretary of the Navy to be not necessary for the national defense, may in the discretion of the Commission be sold to a person not a citizen of the United States subject to the provisions of subsections (b), (c), (d), and (e) of this section.

(b) In the case of any vessel other than a Liberty type vessel, sale may be made under this section only after the Commission shall have made a public offer open for such reasonable period as it may fix to sell the vessel under section 3 hereof to citizens of the United States and a sale is not consummated thereunder.

(c) Sales of vessels other than Liberty type vessels shall be made under this section pursuant to advertisement and competitive bids and no bid for less than the depreciated foreign cost for the vessel as determined under section 2 shall be accepted.

(d) Vessels of the Liberty type may be sold under this subsection by negotiation at not less than the depreciated pre-war foreign cost.

(e) Payment of the sales price for vessels sold under this section shall be made upon such terms and conditions as the Commission with the approval of the President shall prescribe. In connection with sales to noncitizens, the Commission is authorized to avail itself of the services of any other agency of the United States Government with duties or powers in respect of extension of credit or financing services, and any such agency is authorized to extend such facilities and services to the Commission or to the purchaser for the purposes hereof.

States provisions, binding on, and running with the title of, the vessel, to the effect that in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, or prior to the expiration of five years from the termination of such emergency, charters or takes such vessel for bare boat use, the charter hire paid to the person who is the owner of the vessel, shall be at a rate in no event greater than 15 per centum per annum of the adjusted basis of the vessel in the hands of such owner as of the date of such charter or taking, determined under section 113 (b) of the Internal Revenue Code, and that in the event prior to the termination of such emergency or prior to the expiration of such five years, such vessel is repurchased or requisitioned for title by the United States, or is lost by reason of causes for which the United States is responsible, the compensation paid to the person who is the owner of the vessel shall not exceed the adjusted basis of the vessel in the hands of such person as of the date of requisition or loss, determined under section 113 (b) of the Internal Revenue Code.

GENERAL PROVISIONS

SEC. 13. (a) The Commission is authorized to reconvert or restore for normal operation in commercial services, including removal of national defense or war service features, any vessel authorized to be sold or chartered under this Act. The Commission is authorized to make such replacements, alterations, or modifications with respect to any vessel authorized to be sold or chartered under this Act, and to install therein such special features, as may be necessary or advisable to make such vessel suitable for commercial operation on trade routes or services or comparable as to commercial utility to other such vessels of the same general type.

(b) The provisions of section 202 of the War Mobilization and Reconversion Act of 1944 shall not apply to con-

tracts of the Commission for or relating to construction of ships.

(c) Notwithstanding the provisions of section 27 of the Merchant Marine Act, 1920, as amended (U. S. C., title 46, sec. 883), no vessel sold or chartered by the Commission under this Act to a citizen of the United States shall be prohibited from engaging in the coastwise trade of the United States while owned by or chartered to such citizen or citizen successors in interest merely because it was under foreign registry on May 27, 1941, and prior to its sale or charter under this Act to such citizen, if it is otherwise entitled under the laws of the United States to engage in such trade.

(d) All moneys received by the Commission under this Act shall be deposited in the construction fund of the Commission, and all disbursements made by the Commission in carrying out this Act shall be paid from such fund. The provisions of sections 201 (d), 204 (b), 207, 209 (a), and 905 (c) of the Merchant Marine Act, 1936, as amended, shall apply to all activities and functions which the Commission is authorized to perform under this Act.

REPORTS

SEC. 14. The Commission shall, at the beginning of the second regular session of the Seventy-ninth Congress, and every six months thereafter, make a report to Congress with respect to all activities and transactions under this Act which have not been covered by any previous such report.

TERMINATION DATE

SEC. 15. No contract of sale or of charter shall be made under this Act after the expiration of two years from the date of the cessation of hostilities.

- (7) [H. R. 3603, 79th Cong., 1st sess. as amended
and passed in the House]

AN ACT To provide for the sale of surplus war-built vessels, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Merchant Ship Sales Act of 1945."

DECLARATION OF POLICY

SEC. 2. (a) It is necessary for the national defense and development of the foreign and domestic commerce of the United States that the United States have a merchant marine (1) sufficient to carry its domestic water-borne commerce and a substantial portion of its water-borne export and import foreign commerce and to provide shipping service on all routes essential for maintaining the flow of such domestic and foreign water-borne commerce at all times; (2) capable of serving as a naval and military auxiliary in time of war or national emergency; (3) owned and operated under the United States flag by citizens of the United States; (4) composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel; and (5) supplemented by American-owned facilities for repairs, marine insurance, and other auxiliary services.

(b) It is hereby declared to be the policy of this Act to foster the development and encourage the maintenance of such a merchant marine, and to facilitate the adjustment of the merchant marine from war service to peacetime operations.

SEC. 3. As used in this Act the term—

(a) "Commission" means the United States Maritime Commission.

(b) "War-built vessel" means an oceangoing vessel of two thousand gross tons or more, owned by the United States and suitable for commercial use—

(1) which was constructed or contracted for by or for the account of the United States during the period beginning January 1, 1941, and ending with June 30, 1945; or

(2) which, having been constructed during the period beginning September 3, 1939, and ending with June 30, 1945, was acquired by the United States during such period.

(c) "Prewar domestic cost", as applied to any type of vessel, means the amount determined by the Commission, and published by the Commission in the Federal Register, to be the amount for which a standard vessel of such type could have been constructed (without its national defense features) in the United States under normal conditions relating to labor, materials, and other elements of cost, obtaining on or about January 1, 1941. In no case shall the prewar domestic cost of any type of vessel be considered to be greater than 80 per centum of the average construction cost of vessels of the same type delivered during the calendar year 1944.

(d) "Statutory sales price", as applied to a particular vessel, means, in the case of a dry-cargo vessel, an amount equal to 55 per centum of the prewar domestic cost of that type of vessel, unless it is being sold or chartered to an unsubsidized operator, in which case such term means an amount equal to 50 per centum of such cost, and in the case of a tanker, such term means an amount equal to 100 per centum of the prewar domestic cost of a tanker of that type, such amount in each case being adjusted as follows:

(1) If the Commission is of the opinion that the vessel is not in class, there shall be subtracted the amount estimated by the Commission as the cost of putting the vessel in class.

(2) If the Commission is of the opinion that the vessel lacks desirable features which are incorporated in the standard vessel used for the purpose of determining prewar domestic cost, and that the statutory sales price (unadjusted) would be lower if the standard vessel had also lacked such features, there shall be subtracted the amount estimated by the Commission as the amount of such resulting difference in statutory sales price.

(3) If the Commission is of the opinion that the vessel contains desirable features which are not incorporated in the standard vessel used for the purpose of determining prewar domestic cost, and that the statutory sales price (unadjusted) would be higher if the standard vessel had also contained such features, there shall be added the amount estimated by the Commission as the amount of such resulting difference in statutory sales price.

(4) There shall be subtracted, as representing normal depreciation, an amount computed by applying to the statutory sales price (determined without regard to this paragraph) the rate of 5 per centum per annum for the period beginning with the date of the original delivery of the vessel by its builder and ending with the date of sale or charter to the applicant in question, and there shall also be subtracted an amount computed by applying to the statutory sales price (determined without regard to this paragraph) such rate not in excess of 3 per centum per annum in the case of a vessel other than a tanker, and not in excess of 4 per centum per annum in the case of a tanker, for such period or periods of war service as the Commission determines will make reasonable allowance for excessive wear and tear by reason of war service which cannot be or has not been otherwise compensated for under this subsection.

No adjustment shall be made under this Act which will result in a statutory sales price which (1) in the case of any

dry-cargo vessel, will be less than 35 per centum for an unsubsidized operator, or 40 per centum for any other operator, of the average construction cost (without national defense features) of vessels of the same type delivered during the calendar year 1944, except in the case of any type of dry-cargo vessel the principal deliveries of which were made after the calendar year 1944, there shall be used in lieu of such year 1944 such period of not less than six consecutive calendar months as the Commission shall find to be most representative of war production costs of such type, or (2) in the case of a tanker will be less than 50 per centum of the average construction cost (without national defense features) of tankers of the same type delivered during the calendar year 1944, in each case as determined by the Commission. For the purposes of this Act all dry-cargo Liberty vessels shall be considered to be vessels of one and the same type.

(c) "Unsubsidized operator" means a citizen of the United States other than one who, on the date of the enactment of this Act, is a contractor under an operating-differential subsidy contract made under the Merchant Marine Act, 1936, as amended.

(f) "Cessation of hostilities" means the date proclaimed by the President as the date of the cessation of hostilities in the present war, or the date so specified in a concurrent resolution of the two Houses of the Congress, whichever is the earlier.

(g) "Citizen of the United States" includes a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 2 of the Shipping Act of 1916, as amended.

SALES OF WAR-BUILT VESSELS TO CITIZENS

SEC. 4. (a) Any citizen of the United States may make application to the Commission to purchase a war-built vessel, under the jurisdiction and control of the Commission, at the statutory sales price. If the Commission determines that the applicant possesses the ability, experience, financial

resources and other qualifications necessary to enable him to operate and maintain the vessel under normal competitive conditions and that such sale will aid in carrying out the policies of this Act, the Commission shall sell such vessel to the applicant at the statutory sales price.

(b) At the time of sale, the purchaser shall pay to the Commission at least 25 per centum of the statutory sales price. The balance of the statutory sales price shall be payable in not more than twenty equal annual installments, with interest on the portion of the statutory sales price remaining unpaid, at the rate of $3\frac{1}{2}$ per centum, or shall be payable under such other amortization provisions which permit the purchaser to accelerate payment of the unpaid balance as the Commission deems satisfactory. The obligation of the purchaser with respect to payment of such unpaid balance with interest shall be secured by a preferred mortgage on the vessel sold.

(c) The contract of sale, and the mortgage given to secure the payment of the unpaid balance of the purchase price, shall not restrict the lawful or proper use or operation of the vessel.

CHARTER OF WAR-BUILT VESSELS TO CITIZENS

SEC. 5. (a) Any citizen of the United States may make application to the Commission to charter a war-built dry-cargo vessel, under the jurisdiction and control of the Commission, for bare boat use. The Commission may, in its discretion, either reject or approve the application, but shall not so approve unless in its opinion the chartering of such vessel to the applicant would be consistent with the policies of this Act. No vessel shall be chartered under this section unless it has been offered for sale under section 4 for a period of at least three months and no sale has been consummated under such section during such period.

(b) The charter hire for any vessel chartered under the provisions of this section shall be fixed by the Commission at such rate as the Commission determines to be consistent with the policies of this Act, but, except upon the affirmative

vote of not less than four members of the Commission, such rate shall not be less than 15 per centum per annum of the statutory sales price (computed as of the date of charter). Except in the case of vessels having passenger accommodations for not less than eighty passengers, rates of charter hire fixed by the Commission on any war-built vessel which differ from the rate specified in this subsection shall not be less than the prevailing world market charter rates for similar vessels for similar use as determined by the Commission.

(c) The provisions of sections 708, 709, 710, 712, and 713, of the Merchant Marine Act, 1936, as amended, shall be applicable to charters made under this section.

SALE OF WAR-BUILT VESSELS TO PERSONS NOT CITIZENS OF THE UNITED STATES

Sec. 6. (a) Any person not a citizen of the United States may make application to the Commission to purchase a war-built vessel (other than a P-2 type or other passenger type and other than a bulk dry-cargo Liberty type), under the jurisdiction and control of the Commission. If the Commission determines—

(1) that the applicant has the financial resources, ability, and experience necessary to enable him to fulfill all obligations with respect to payment of any deferred portion of the purchase price, and that sale of the vessel to him would not be inconsistent with any policy of the United States in respect of relations with other countries; and

(2) that such vessel is not necessary to the defense of the United States; and

(3) that such vessel is not necessary to the promotion and maintenance of an American merchant marine described in section 2; and

(4) that for a reasonable period of time which in the case of tankers and "C" type vessels shall not end before six months after the date of the enactment of

this Act, such vessel has been available for sale at the statutory sales price to citizens of the United States, or for charter under section 5 to citizens of the United States, and that no responsible offer has been made by a citizen of the United States to purchase or charter such vessel;

then the Commission is authorized to approve the application and sell such vessel to the applicant at not less than the statutory sales price. The determination of the Commission under paragraph (2) shall be made only after consultation with the Secretary of War and the Secretary of the Navy. Notwithstanding paragraph (4) of this subsection, not to exceed five "C" type vessels actually under charter to noncitizens for at least one year prior to the date of the enactment of this Act may be sold to noncitizens at any time after such date of enactment at not less than the statutory sales price.

(b) Notwithstanding any other provision of law, no war-built vessel shall be sold to any person not a citizen of the United States, except in accordance with subsection (a), or upon terms or conditions more favorable than those at which such war-built vessel is offered to a citizen of the United States.

ORDER OF PREFERENCES

SEC. 7. (a) In exercising its powers under this Act and under other provisions of law with respect to the sale and charter of war-built vessels, the Commission shall give preference to citizen applicants over noncitizen applicants, and as between citizen applicants to purchase and citizen applicants to charter, shall, so far as practicable and consistent with the policies of this Act, give preference to citizen applicants to purchase. In determining the order of preference between citizen applicants to purchase or between citizen applicants to charter, the Commission shall consider, among other relevant factors, the extent to which losses and requisitions of the applicant's prewar tonnage have been overcome and shall in all cases, in the sale and

charter of a war-built vessel, give preference in such sale or charter, as the case may be, to the former owner of such vessel, or to the person for whom the vessel was constructed but to whom delivery thereof was prevented by the United States Maritime Commission. In determining the order of preference between noncitizen applicants to purchase, the Commission shall consider the extent to which losses in prewar tonnage of the various member nations of the United Nations, incurred in the interests of the war effort, have been overcome, and the relative effects of such losses upon the national economy of such member nations.

(b) After the cessation of hostilities, operation of vessels in commercial service by the United States Maritime Commission, either for its own account or through operating agents under agency agreements, shall be continued only to the extent necessary to effect orderly transfer of vessels to private operation.

EXCHANGE OF VESSELS

SEC. 8. (a) The Commission is authorized to acquire, in exchange for an allowance of a credit on the purchase of any war-built vessel under this Act—

(1) Any vessel owned by a citizen of the United States, other than a vessel purchased under this Act; or

(2) Any vessel owned by a foreign corporation, if—

(A) the vessel was constructed in the United States, and has, after December 7, 1941, been chartered to, or otherwise taken for use by, the United States; and

(B) the controlling interest in such corporation is, at the time of acquisition, of such vessel hereunder, owned by a citizen or citizens of the United States, and has been so owned for a period of at least three years immediately prior to such acquisition; and

(C) such corporation agrees that the war-built vessel purchased with the use of such credit shall be documented under the laws of the United States.

Such allowance shall not be applied upon the cash payment required under section 4. The amount of such allowance shall be determined by the Commission, having regard to the tonnage of the vessel being exchanged, but shall in no event be greater than 10 per centum of the average construction cost (without national defense features) of war-built vessels (of the same type as that being purchased) delivered during the calendar year 1944, except that in the case of any type of dry-cargo vessel the principal deliveries of which were made after the calendar year 1944, there shall be used in lieu of the year 1944 such period of not less than six consecutive months as the Commission shall find to be most representative of war production costs of such type. In any case where the vessel offered in exchange was acquired from the United States, the exchange allowance under this section shall, unless subsequent to its sale by the United States it was acquired by a bona fide purchaser for value, in no event be greater than the price at which the vessel was acquired from the United States plus the depreciated cost of any capital improvements thereon. No vessel which is under charter to the United States on the date of the enactment of this Act and which, pursuant to the terms of such charter, has been restored to condition by the United States, or for the restoring of which pursuant to the terms of such charter a cash allowance has been made to the owner, may be exchanged under this section.

(b) The Commission is also authorized to make available any war-built vessel for transfer to any citizen in complete or partial settlement of any claim of such citizen against the United States (1) for just compensation upon the requisition for title of any vessel which he owned, or (2) for indemnity for the loss of any vessel owned by him and taken by the United States for use; *Provided*, That the value or price attributed to any war-built vessel made available under the provisions of this subsection shall not be less than the price at and for which such vessel may be sold under the provisions of this Act.

(c) Except as hereinafter provided, a war-built vessel shall not be deemed to be a "new vessel" for the purposes of section 510 of the Merchant Marine Act, 1936, as amended, but shall be deemed a "new vessel" for the purposes of section 511 of such Act. Section 510 (c) of the Merchant Marine Act, 1936, as amended, shall be applicable with respect to vessels exchanged under this section to the same extent as applicable to obsolete vessels exchanged under section 510 of such Act.

ADJUSTMENT FOR PRIOR SALES TO CITIZENS

SEC. 9. (a) A citizen of the United States who on the date of the enactment of this Act—

(1) owns a vessel which he purchased from the Commission prior to such date, and which was delivered by its builder after December 31, 1940; or

(2) is party to a contract with the Commission to purchase from the Commission a vessel, which has not yet been delivered to him; or

(3) owns a vessel on account of which a construction-differential subsidy was paid, or agreed to be paid, by the Commission under section 504 of the Merchant Marine Act, 1936, as amended, and which was delivered by its builder after December 31, 1940; or

(4) is party to a contract with a shipbuilder for the construction for him of a vessel, which has not yet been delivered to him, and on account of which a construction-differential subsidy was agreed, prior to such date, to be paid by the Commission under section 504 of the Merchant Marine Act, 1936, as amended;

shall, except as hereinafter provided, be entitled to an adjustment in the price of such vessel under this section if he makes application therefor, in such form and manner as the Commission may prescribe, within sixty days after the date of the enactment of this Act. No adjustment shall be made

under this section in respect of any vessel the contract for the construction of which was made after June 30, 1945, under the provisions of title V (including sec. 504) or title VII of the Merchant Marine Act, 1936, as amended.

(b) Such adjustment shall be made, as hereinafter provided, by treating the vessel as if it were being sold to the applicant on the date of the enactment of this Act, and not before that time. The amount of such adjustment shall be determined as follows:

(1) The Commission shall credit the applicant with the excess of the cash payments made upon the original purchase price of the vessel over 25 per centum of the statutory sales price of the vessel as of such date of enactment. If such payment was less than 25 per centum of the statutory sales price of the vessel, the applicant shall pay the difference to the Commission.

(2) The mortgage indebtedness of the applicant with respect to the vessel shall be canceled and a new mortgage indebtedness, payable in not more than twenty equal annual installments, with interest on the portion of the statutory sales price remaining unpaid, at the rate of $3\frac{1}{2}$ per centum per annum, shall be assumed by the applicant.

(3) The new mortgage indebtedness shall be in an amount equal to the excess of the statutory sales price of the vessel as of the date of the enactment of this Act over the sum of the cash payment retained by the United States under paragraph (1) plus the readjusted trade-in allowance (determined under paragraph (6)) with respect to any vessel exchanged by the applicant on the original purchase.

(4) The Commission shall credit the applicant with the excess, if any, of the sum of the cash payments made by the applicant upon the original purchase price of the vessel plus the readjusted trade-in allowance (determined under paragraph (6)) over the statutory sales

price of the vessel as of the date of the enactment of this Act to the extent not credited under paragraph (1).

(5) The Commission shall also credit the applicant with an amount equal to interest at the rate of $3\frac{1}{2}$ per centum per annum (for the period beginning with the date of the original delivery of the vessel to the applicant and ending with the date of the enactment of this Act) on the excess of the original purchase price of the vessel over the amount of any allowance allowed by the Commission on the exchange of any vessel on such purchase; the amount of such credit first being reduced by any interest on the original mortgage indebtedness accrued up to such date of enactment and unpaid. Interest so accrued and unpaid shall be canceled.

(6) The applicant shall credit the Commission with all amounts paid by the United States to him as charter hire for use of the vessel (exclusive of service, if any, required under the terms of the charter) under any charter party made prior to the date of the enactment of this Act, and any charter hire for such use accrued up to such date of enactment and unpaid shall be canceled; and the Commission shall credit the applicant with the amount that would have been paid by the United States to the applicant as charter hire for bareboat use of vessels exchanged by the applicant on the original purchase (for the period beginning with date on which the vessels so exchanged were delivered to the Commission and ending with the date of the enactment of this Act).

(7) The allowance made to the applicant on any vessel exchanged by him on the original purchase shall be readjusted so as to limit such allowance to the amount provided for under section 8.

(8) There shall be subtracted from the sum of the credits in favor of the Commission under the foregoing provisions of this subsection the amount of any overpayments of Federal taxes by the applicant resulting

from the application of subsection (c) (1), and there shall be subtracted from the sum of the credits in favor of the applicant under the foregoing provisions of this subsection the amount of any deficiencies in Federal taxes of the applicant resulting from the application of subsection (c) (1). If, after making such subtractions, the sum of the credits in favor of the applicant exceeds the sum of the credits in favor of the Commission, such excess shall be paid by the Commission to the applicant. If, after making such subtractions, the sum of the credits in favor of the Commission exceeds the sum of the credits in favor of the applicant, such excess shall be paid by the applicant to the Commission. Upon such payment by the Commission or the applicant, such overpayments shall be treated as having been refunded and such deficiencies as having been paid.

For the purposes of this subsection, the purchase price of a vessel on account of which a construction differential subsidy was paid or agreed to be paid under section 504 of the Merchant Marine Act, 1936, as amended, shall be the net cost of the vessel to the owner.

(c) An adjustment shall be made under this section only if an adjustment is applied for on all vessels of the applicant with respect to which an adjustment may be made under this section, and then only if the applicant enters into an agreement with the Commission to the effect that, in the case of each such vessel—

(1) depreciation and amortization allowed or allowable with respect to the vessel up to the date of the enactment of this Act for Federal tax purposes shall be treated as not having been allowable; amounts credited to the Commission under subsection (b) (6) shall be treated for Federal tax purposes as not having been received or accrued as income; amounts credited to the applicant under subsection (b) (6) shall be treated for Federal tax purposes as having been received and accrued as income in the taxable year in which falls the

date of the enactment of this Act; and the amount credited by the Commission under subsection (b) (5) shall be treated for Federal tax purposes as having been received and accrued as income ratably over the period beginning with the date of the original delivery of the vessel to the applicant and ending with the day before the date of the enactment of this Act;

(2) the liability of the United States for use (exclusive of service, if any, required under the terms of the charter), of the vessel on or after the date of the enactment of this Act under any charter party shall not exceed 15 per centum per annum of the statutory sales price of the vessel as of such date of enactment; and the liability of the United States under any such charter party for loss of the vessel shall be determined on the basis of the statutory sales price as of the date of the enactment of this Act, depreciated to the date of loss at the rate of 5 per centum per annum, plus not to exceed 3 per centum per annum as representing excessive wear and tear by reason of war service; and

(3) in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bareboat charter made, on or after the date of the enactment of this Act, the compensation to be paid to the purchaser, his receivers, and trustees, shall in no event be greater than 15 per centum per annum of the statutory sales price as of such date.

(d) Section 506 of the Merchant Marine Act, 1936, as amended, shall not apply to any vessel with respect to which an adjustment is made under this section.

IMITATION ON ELIGIBILITY FOR BENEFITS OF ACT

SEC. 10. No person shall be eligible to purchase or charter a war-built vessel under this Act, or to receive an adjust-

ment under section 9, unless such person makes an agreement with the Commission to the effect that the liability of the United States under any charter party or taking for use, made or effected prior to the date of the enactment of this Act, for the loss, on or after such date of enactment and prior to September 3, 1947, of any vessel owned by such person and under charter to the United States, (excluding a vessel with respect to which an application under section 9 can be made) shall be limited to an amount equal to just compensation as of the date of said loss, determined pursuant to section 902 of the Merchant Marine Act, 1936, as amended, or such amount as may be mutually agreed upon subsequent to the date of the enactment of this Act as just compensation under the provisions of section 902.

NATIONAL DEFENSE RESERVE FLEET

SEC. 11. The Commission shall place in a national defense reserve (1) such vessels owned by it as, after consultation with the Secretary of War and the Secretary of the Navy, it deems should be retained for the national defense, and (2) all vessels owned by it on September 3, 1947, for the sale of which a contract has not been made by that time, except those determined by the Commission to be of insufficient value for commercial and national defense purposes to warrant their maintenance and preservation. A vessel under charter on that date shall not be placed in the reserve until the termination of such charter. Unless otherwise provided for by law, all vessels placed in such reserve shall be preserved and maintained by the Commission for the purpose of national defense. A vessel placed in such reserve shall in no case be used for commercial operation, except that any such vessel may be used during any period in which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936, as amended.

The Commission is authorized to lend to any State maritime academy, for such period or periods, definite or indefinite, as the Commission may prescribe, any war-built vessel or vessels for use by such academy in connection with its course of instruction.

GENERAL PROVISIONS

SEC. 12. (a) The Commission is authorized to reconvert or restore for normal operation in commercial services, including removal of national defense or war service features, any vessel authorized to be sold or chartered under this Act. The Commission is authorized to make such replacements, alterations or modifications with respect to any vessel authorized to be sold or chartered under this Act, and to install therein such special features, as may be necessary or advisable to make such vessel suitable for commercial operation on trade routes or services or comparable as to commercial utility to other such vessels of the same general type.

(b) The provisions of section 202 of the War Mobilization and Reconversion Act of 1944 shall not apply to contracts of the Commission for or relating to construction of ships.

(c) Notwithstanding the provisions of section 27 of the Merchant Marine Act, 1920, as amended (U. S. C., title 46, sec. 883), no vessel sold or chartered by the Commission under this Act to a citizen of the United States shall be prohibited from engaging in the coastwise trade of the United States while owned by or chartered to such citizen or citizen successors in interest merely because it was under foreign registry on May 27, 1941, and prior to its sale or charter under this Act to such citizen, if it is otherwise entitled under the laws of the United States to engage in such trade.

(d) The provisions of section 201 (d), 204 (b), 207, 209 (a) and 905 (c) of the Merchant Marine Act, 1936, as amended, shall apply to all activities and functions which the Commission is authorized to perform under this Act.

REPORTS

SEC. 13. The Commission shall, at the beginning of the second regular session of the Seventy-ninth Congress, and

every six months thereafter, make a report to Congress with respect to all activities and transactions under this Act which have not been covered by any previous such report.

TERMINATION DATE

SEC. 14. No contract of sale or of charter shall be made under this Act after September 2, 1947.

(8) [H. R. 3603, 79th Cong., 1st sess., as amended in the Senate]

AN ACT To provide for the sale of surplus war-built vessels, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Merchant Ship Sales Act of 1945."

DECLARATION OF POLICY

SEC. 2. (a) It is necessary for the national security and development and maintenance of the domestic and the export and import foreign commerce of the United States that the United States have an efficient and adequate American-owned merchant marine (1) sufficient to carry its domestic water-borne commerce and a substantial portion of its water-borne export and import foreign commerce and to provide shipping service on all routes essential for maintaining the flow of such domestic and foreign water-borne commerce at all times; (2) capable of serving as a naval and military auxiliary in time of war or national emergency; (3) owned and operated under the United States flag by citizens of the United States; (4) composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel; and (5) supplemented by efficient American-owned facilities for shipbuilding and ship repair, marine insurance, and other auxiliary services.

(b) It is hereby declared to be the policy of this Act to foster the development and encourage the maintenance of

such a merchant marine, and to facilitate the adjustment of the merchant marine from war service to peacetime operations.

DEFINITIONS

SEC. 3. As used in this Act the term—

(a) "Commission" means the United States Maritime Commission.

(b) "War-built vessel" means an oceangoing vessel of one thousand five hundred gross tons or more, owned by the United States and suitable for commercial use—

(1) which was constructed or contracted for by or for the account of the Commission during the period, beginning January 1, 1941, and ending September 2, 1945; or

(2) which, having been constructed during the period beginning September 3, 1939, and ending September 2, 1945, was acquired by the Commission or the War Shipping Administration during such period.

(c) "Prewar domestic cost", as applied to any type of vessel, means the amount determined by the Commission, and published by the Commission in the Federal Register, to be the amount for which a standard vessel of such type could have been constructed (without its national defense features) in the United States under normal conditions relating to labor, materials, and other elements of cost, obtaining on or about January 1, 1941. In no case shall the prewar domestic cost of any type of vessel be considered to be greater than 80 per centum of the domestic war cost of vessels of the same type.

(d) "Statutory sales price", as applied to a particular vessel, means, in the case of a dry-cargo vessel, an amount equal to 50 per centum of the prewar domestic cost of that type of vessel, and in the case of a tanker, such term means an amount equal to 60 per centum of the prewar domestic

cost of a tanker of that type, such amount in each case being adjusted as follows:

(1) If the Commission is of the opinion that the vessel is not in class, there shall be subtracted the amount estimated by the Commission as the cost of putting the vessel in class.

(2) If the Commission is of the opinion that the vessel lacks desirable features which are incorporated in the standard vessel used for the purpose of determining prewar domestic cost, and that the statutory sales price (unadjusted) would be lower if the standard vessel had also lacked such features, there shall be subtracted the amount estimated by the Commission as the amount of such resulting difference in statutory sales price.

(3) If the Commission is of the opinion that the vessel contains desirable features which are not incorporated in the standard vessel used for the purpose of determining prewar domestic cost, and that the statutory sales price (unadjusted) would be higher if the standard vessel had also contained such features, there shall be added the amount estimated by the Commission as the amount of such resulting difference in statutory sales price.

(4) There shall be subtracted, as representing normal depreciation, an amount computed by applying to the statutory sales price (determined without regard to this paragraph) the rate of 5 per centum per annum for the period beginning with the date of the original delivery of the vessel by its builder and ending with the date of sale or charter to the applicant in question, and there shall also be subtracted an amount computed by applying to the statutory sales price (determined without regard to this paragraph) such rate not in excess of 3 per centum per annum in the case of a vessel other than a tanker, and not in excess of 4 per centum per annum in the case of a tanker, for such period or

periods of war service as the Commission determines will make reasonable allowance for excessive wear and tear by reason of war service which cannot be or has not been otherwise compensated for under this subsection.

No adjustment, except in respect of passenger vessels constructed before January 1, 1941, shall be made under this Act which will result in a statutory sales price which (1) in the case of dry-cargo vessels (except Liberty type vessels) will be less than 35 per centum of the domestic war cost of vessels of the same type, (2) in the case of any Liberty type vessel will be less than $31\frac{1}{2}$ per centum of the domestic war cost of vessels of such type, or (3) in the case of a tanker will be less than 42 per centum of the domestic war cost of tankers of the same type. For the purposes of this Act all Liberty vessels shall be considered to be vessels of one and the same type.

(e) "Domestic war cost" as applied to any type of vessel means the average construction cost (without national defense features) as determined by the Commission, of vessels of such type delivered during the calendar year 1944, except in case of any type of vessel the principal deliveries of which were made other than in the calendar year 1944, there shall be used in lieu of such year 1944 such period of not less than six consecutive calendar months as the Commission shall find to be most representative of war production costs of such type.

(f) "Cessation of hostilities" means the date proclaimed by the President as the date of the cessation of hostilities in the present war, or the date so specified in a concurrent resolution of the two Houses of the Congress, whichever is the earlier.

(g) "Citizen of the United States" includes a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 2 of the Shipping Act of 1916, as amended. The term "affiliated interest" as used in sections 9 and 10 of this Act includes

any person affiliated or associated with a citizen applicant for benefits under this Act who the Commission, pursuant to rules and regulations prescribed hereunder, determines should be so included in order to carry out the policy and purposes of this Act.

SALES OF WAR-BUILT VESSELS TO CITIZENS

SEC. 4. (a) Any citizen of the United States may make application to the Commission to purchase a war-built vessel, under the jurisdiction and control of the Commission, at the statutory sales price. If the Commission determines that the applicant possesses the ability, experience, financial resources, and other qualifications necessary to enable him to operate and maintain the vessel under normal competitive conditions, and that such sale will aid in carrying out the policies of this Act, the Commission shall sell such vessel to the applicant at the statutory sales price.

(b) At the time of sale, the purchaser shall pay to the Commission at least 25 per centum of the statutory sales price. The balance of the statutory sales price shall be payable in not more than twenty equal annual installments, with interest on the portion of the statutory sales price remaining unpaid, at the rate of $3\frac{1}{2}$ per centum per annum, or shall be payable under such other amortization provisions which permit the purchaser to accelerate payment of the unpaid balance as the Commission deems satisfactory. The obligation of the purchaser with respect to payment of such unpaid balance with interest shall be secured by a preferred mortgage on the vessel sold.

(c) The contract of sale, and the mortgage given to secure the payment of the unpaid balance of the purchase price, shall not restrict the lawful or proper use or operation of the vessel.

CHARTER OF WAR-BUILT VESSELS TO CITIZENS

SEC. 5. (a) Any citizen of the United States may make application to the Commission to charter a war-built dry-cargo vessel, under the jurisdiction and control of the Commission, for bare-boat use. The Commission may, in its discretion, either reject or approve the application, but shall not so approve unless in its opinion the chartering of such vessel to the applicant would be consistent with the policies of this Act.

(b) The charter hire for any vessel chartered under the provisions of this section shall be fixed by the Commission at such rate as the Commission determines to be consistent with the policies of this Act, but, except upon the affirmative vote of not less than four members of the Commission, such rate shall not be less than 15 per centum per annum of the statutory sales price (computed as of the date of charter). Except in the case of vessels having passenger accommodations for not less than eighty passengers, rates of charter hire fixed by the Commission on any war-built vessel which differ from the rate specified in this subsection shall not be less than the prevailing world market charter rates for similar vessels for similar use as determined by the Commission.

(c) The Provisions of sections 708, 709, 710, 712, and 713, of the Merchant Marine Act, 1936, as amended, shall be applicable to charters made under this section.

**SALE OF WAR-BUILT VESSELS TO PERSONS NOT CITIZENS
OF THE UNITED STATES**

SEC. 6. (a) Any person not a citizen of the United States may make application to the Commission to purchase a war-built vessel (other than a P-2 type or other passenger type and other than a bulk dry-cargo Liberty type), under the jurisdiction and control of the Commission. If the Commission determines—

(1) that the applicant has the financial resources, ability, and experience necessary to enable him to fulfill all obligations with respect to payment of any deferred portion of the purchase price, and that sale of the vessel to him would not be inconsistent with any policy of the United States in permitting foreign sales under section 9 of the Shipping Act, 1916, as amended; and

(2) after consultation with the Secretary of the Navy, that such vessel is not necessary to the defense of the United States; and

(3) that such vessel is not necessary to the promotion and maintenance of an American merchant marine described in section 2; and

(4) that for a reasonable period of time, which in the case of tankers and "C" type vessels shall not end before ninety days after publication of the applicable prewar domestic cost in the Federal Register under sub-section 3(c) of this Act such vessel has been available for sale at the statutory sales price to citizens of the United States, or for charter under section 5 to citizens of the United States, and that no responsible offer has been made by a citizen of the United States to purchase or charter such vessel;

then the Commission is authorized to approve the application and sell such vessel to the applicant at not less than the statutory sales price. Notwithstanding paragraph (4) of this subsection, not to exceed ten "C" type vessels, except C-3's, may be sold to noncitizens at any time after such date of publication at not less than the statutory sales price.

(b) Notwithstanding any other provision of law, no war-built vessel shall be sold to any person not a citizen of the United States, except in accordance with subsection (a), or upon terms or conditions more favorable than those at which such war-built vessel is offered to a citizen of the United States, but where the vessel so sold is being transferred to foreign registry and flag, the mortgage securing

the unpaid balance of the purchase price and interest thereon shall contain provisions according to such mortgage the priorities over other liens and encumbrances accorded such mortgages on merchant vessels under the laws of such registry and flag.

ORDER OF PREFERENCES

SEC. 7. (a) In exercising its powers under this Act and under other provisions of law with respect to the sale and charter of war-built vessels, the Commission shall give preference to citizen applicants over noncitizen applicants, and as between citizen applicants to purchase and citizen applicants to charter, shall, so far as practicable and consistent with the policies of this Act, give preference to citizen applicants to purchase. In determining the order of preference between citizen applicants to purchase or between citizen applicants to charter, the Commission shall consider, among other relevant factors, the extent to which losses and requisitions of the applicant's prewar tonnage have been overcome and shall in all cases, in the sale and charter of a war-built vessel, give preference in such sale or charter, as the case may be, to the former owner of such vessel, or to the person for whom the vessel was constructed but to whom delivery thereof was prevented by the United States. In determining the order of preference between non-citizen applicants to purchase, the Commission shall consider the extent to which losses in prewar tonnage of the various member nations of the United Nations, incurred in the interests of the war effort, have been overcome, and the relative effects of such losses upon the national economy of such member nations.

(b) After the cessation of hostilities, operation of vessels in commercial service by the United States, either for its own account or through operating agents under agency agreements, shall, except as specifically authorized by law, be continued only to the extent necessary to effect orderly transfer of vessels to private operation.

EXCHANGE OF VESSELS

SEC. 8. (a) The Commission is authorized to acquire, in exchange for an allowance of a credit on the purchase of any war-built vessel under section 4 or any vessel acquired through exchange under subsection (d) of this section—

- (1) Any vessel owned by a citizen of the United States, other than a vessel purchased under this Act; or
- (2) Any vessel owned by a foreign corporation, if—

(A) the vessel was constructed in the United States, and has, after December 7, 1941, been chartered to, or otherwise taken for use by, the United States; and

(B) the controlling interest in such corporation is, at the time of acquisition of such vessel hereunder, owned by a citizen or citizens of the United States, and has been so owned for a period of at least three years immediately prior to such acquisition; and

(C) such corporation agrees that the war-built vessel purchased with the use of such credit shall be owned by such citizen or citizens and shall be documented under the laws of the United States.

Such allowance shall not be applied upon the cash payment required under section 4. A war-built vessel shall be deemed a "new vessel" for the purpose of section 511 of the Merchant Marine Act, 1936, as amended, and section 510(e) of such Act shall be applicable with respect to vessels exchanged under this section to the same extent as applicable to obsolete vessels exchanged under section 510 of such Act.

(b) (1) If, within ninety days after the publication of the applicable prewar domestic cost in the Federal Register under section 3(c) of this Act, the owner of a vessel eligible

for exchange under subsection (a) makes a firm offer binding for at least ninety days, to transfer the vessel to the Commission in exchange for an allowance of credit provided in subsection (a), the amount of such allowance shall be the fair and reasonable value of the vessel as determined by the Commission under this section. In making such determination the Commission shall consider: (A) The value of the vessel determined in accordance with the standards of valuation established pursuant to Executive Order 9387 (8 F. R. 14105) as of the date of such offer, (B) any liability of the United States for repair and restoration of the vessel, (C) the utility value of the vessel, (D) the effect of this Act upon the market value of such vessel, and (E) the public interest in promoting exchanges of vessels as a means of rehabilitating and modernizing the American merchant marine. In no event shall the amount of such allowance, in case of dry cargo vessels and tankers, exceed (A) (1) if the vessel or vessels tendered in exchange are of equal or greater dead-weight tonnage than the war-built vessel or vessels being acquired, $33\frac{1}{3}$ per centum of the statutory sales price (unadjusted) of the war-built vessel or vessels, or (2) if the vessel or vessels tendered in exchange are of lesser dead-weight tonnage than the war-built vessel or vessels, such proportionate part of $33\frac{1}{3}$ per centum of the statutory sales price (unadjusted) of such war-built vessel or vessels as the dead-weight tonnage of such vessel or vessels, tendered in exchange bear to the dead-weight tonnage of such war-built vessel or vessels, or (B) the liability of the United States in connection with the repair or restoration of such vessel under any charter to which the United States is a party, whichever is the higher. In the case of passenger vessels tendered in exchange, the amount of the allowance shall not exceed the percentages of statutory sales price computed under (A) (1) and (2) above by gross tons instead of dead-weight tons; or such liability for the repair or restoration of such passenger vessel, whichever is the higher. In any case where the vessel tendered in exchange was acquired from the United States, the exchange allowance under this section shall not exceed the price paid the

United States therefor plus the depreciated cost of any improvements thereon. No vessel may be exchanged under this section which pursuant to the terms of any charter with the United States has been restored to condition by the United States, or for the restoring of which pursuant to the terms of such charter a cash allowance has been made to the owner.

(2) If, after such offer is made, and prior to its acceptance, or prior to the acquisition of the vessel, by the Commission, the vessel is lost by reason of causes for which the United States is responsible, then in lieu of paying the owner any amount on account of such loss, the offer shall, for the purposes of subsection (a) and this subsection, be considered as having been accepted and the vessel as having been acquired by the Commission under subsection (a) immediately prior to such loss.

(c) The Commission is also authorized to make available any war-built vessel for transfer in complete or partial settlement of any claim against the United States (1) for just compensation upon requisition for title of any vessel, or (2) for indemnity for the loss of any vessel which was acquired for use by the United States, but only to the extent such vessel is available for sale to the claimant.

(d) In the case of any vessel constructed in the United States after January 1, 1937, which has been taken by the United States for use in any manner, the Commission, if in its opinion the transfer would aid in carrying out the policies of this Act, is authorized to transfer to the owner of such vessel another vessel which is deemed by the Commission to be of comparable type with adjustments for depreciation and difference in design or speed, and to the extent applicable, adjustments with respect to the retained vessel as provided for in section 9, and such other adjustments and terms and conditions, including transfer of mortgage obligations in favor of the United States, binding upon the old vessel, as the Commission may prescribe.

ADJUSTMENT FOR PRIOR SALES TO CITIZENS

Sec. 9: (a) A citizen of the United States who on the date of the enactment of this Act—

(1) owns a vessel which he purchased from the Commission prior to such date, and which was delivered by its builder after December 31, 1940; or

(2) is party to a contract with the Commission to purchase from the Commission a vessel, which has not yet been delivered to him; or

(3) owns a vessel on account of which a construction-differential subsidy was paid, or agreed to be paid, by the Commission under section 504 of the Merchant Marine Act, 1936, as amended, and which was delivered by its builder after December 31, 1940; or

(4) is party to a contract with a shipbuilder for the construction for him of a vessel, which has not yet been delivered to him, and on account of which a construction-differential subsidy was agreed, prior to such date, to be paid by the Commission under section 504 of the Merchant Marine Act, 1936, as amended;

shall, except as hereinafter provided, be entitled to an adjustment in the price of such vessel under this section if he makes application therefor, in such form and manner as the Commission may prescribe, within sixty days after the date of publication of the applicable prewar domestic costs in the Federal Register under section 3 (c) of this Act. No adjustment shall be made under this section in respect of any vessel the contract for the construction of which was made after September 2, 1945, under the provisions of title V (including section 504) or title VII of the Merchant Marine Act, 1936, as amended.

(b) Such adjustment shall be made by crediting the amount thereof against any mortgage indebtedness to the Commission with respect to such vessel (prorated over the

unpaid installments thereof), and by refunding the balance, if any.

(c) The amount of the adjustment under this section shall be the excess of—

(1) the purchase price of such vessel, reduced by an amount representing both normal depreciation at the rate of 5 per centum per annum from the date of delivery to the purchaser to the date of enactment of this Act, and excessive wear and tear by reason of war service, at the same rate and for the same period as that used in computing the statutory sales price under paragraph (2), or in lieu thereof by the amount of any amortization applicable up to such date under section 23(t) of the Internal Revenue Code if such amount is larger; over

(2) the statutory sales price of the vessel as of the date of the enactment of this Act, determined as if the vessel were owned by the Commission, plus, in case a credit as part of the purchase price of the vessel was allowed for an obsolete vessel traded in under section 510 of the Merchant Marine Act, 1936, as amended, the excess, if any, of such credit above the value of such obsolete vessel, determined by the Commission, as of the date of transfer thereof to the Commission, in accord with the standards of valuation in section 8 of this Act.

For the purposes of paragraph (1), the purchase price of a vessel on account of which a construction differential subsidy was paid or agreed to be paid under section 504 of the Merchant Marine Act, 1936, as amended, shall be the net cost of the vessel to the owner.

(d) An adjustment shall be made under this section only if there are included in the adjustment agreement provisions binding upon the citizen applicant and any affiliated interest to the effect that—

(1) the liability of the United States for use (exclusive of service, if any, required under the terms of the charter) of the vessel under any charter party made prior to the date of the enactment of this Act shall be limited to 15 per centum per annum of the adjusted purchase price: Provided, That any payments made to the Commission on the original purchase price of the vessel in excess of $33\frac{1}{3}$ per centum of the adjusted purchase price, and interest actually paid to the Commission on the amount of the price adjustment shall, at the option of the applicant, be credited against the amount of charter hire required to be refunded to the United States pursuant to the provisions of this subsection; and

(2) the liability of the United States under any such charter party for loss of the vessel shall be determined on the basis of the adjusted purchase price, depreciated to the date of loss at the rate of 5 per centum per annum; and

(3) in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bare-boat charter made, on or after the date of the enactment of this Act, the compensation to be paid to the purchaser, his receivers, and trustees, shall in no event be greater than 15 per centum per annum of the adjusted purchase price; and.

(4) if the applicant for an adjustment under this section has received payment or has a claim for payment on account of the loss or requisition for title of a vessel built subsequent to January 1, 1935, taking place since May 27, 1941, and before the date of enactment of this Act, the payment or claim for payment on account of such loss or title requisition shall be redetermined or settled in an amount not to exceed the adjusted basis of the vessel in the hands of the owner as of the

date of loss or requisition, determined under section 113 (b) of the Internal Revenue Code.

(e) (1) If an adjustment in the purchase price of a vessel is made under this section, the income and excess-profits taxes of the vessel owner under the Internal Revenue Code for the taxable year within which the delivery of the vessel was made to the purchaser and for subsequent taxable years, shall be redetermined. For such purposes of redetermination, the vessel shall be considered as having been acquired at the adjusted purchase price, and the income and deductions attributable to such vessel shall be determined as if this section had been in effect on the date of such delivery.

(2) At the election of the taxpayer, any overpayment of tax resulting from the recomputation required under this subsection for any taxable year may, under rules and regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, in lieu of being credited or refunded, be applied as provided in subsection (b) of this section.

(f) Section 506 of the Merchant Marine Act, 1936, as amended, shall not apply with respect to (1) any vessel which is eligible for an adjustment under this section, or (2) any vessel described in clause (1), (2), (3), or (4) of subsection (a) of this section, the contract for the construction of which is made after September 2, 1945, and prior to the date of enactment of this Act.

LIMITATION ON ELIGIBILITY FOR BENEFITS OF ACT

SEC. 10. No person shall be eligible to purchase or charter a war-built vessel under this Act, or to receive an adjustment under section 9, unless such person makes an agreement with the Commission binding upon such person and any affiliated interest to the effect that the liability of the United States under any charter party or taking for use, made or effected prior to the date of the enactment of

this Act, for the loss, on or after such date of enactment and prior to September 3, 1947, of any vessel owned by such person and under charter to the United States (excluding a vessel with respect to which an application under section 9 can be made) shall be limited to an amount equal to just compensation as of the date of said loss, determined pursuant to existing law or such amount as may be mutually agreed upon subsequent to the date of the enactment of this Act as just compensation under the provisions of existing law.

NATIONAL DEFENSE RESERVE FLEET

SEC. 11. (a) The Commission shall place in a national defense reserve (1) such vessels owned by it as, after consultation with the Secretary of War and the Secretary of the Navy, it deems should be retained for the national defense, and (2) all vessels owned by it on December 31, 1947, for the sale of which a contract has not been made by that time, except those determined by the Commission to be of insufficient value for commercial and national defense purposes to warrant their maintenance and preservation, and except those vessels the contracts for the construction of which are made after September 2, 1945, under the provisions of the Merchant Marine Act, 1936, as amended. A vessel under charter on December 31, 1947 shall not be placed in the reserve until the termination of such charter. Unless otherwise provided for by law, all vessels placed in such reserve shall be preserved and maintained by the Commission for the purpose of national defense. A vessel placed in such reserve shall in no case be used for commercial operation, except that any such vessel may be used during any period in which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936, as amended.

(b) Any war-built vessel may be made available by the Commission to any State maintaining a marine school or nautical branch in accordance with the Act of July 29, 1941 (Public Law 191, Seventy-seventh Congress; 55 Stat. 607).

REACQUISITION BY UNITED STATES

SEC. 12. There shall be included in every contract for the sale of a vessel under this Act provisions binding on, and running with the title of, the vessel to the effect that in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, or prior to the expiration of five years from the termination of such emergency, charters or takes such vessel for bare-boat use while owned by a citizen of the United States, the charter hire paid to the owner of the vessel, shall be at a rate in no event greater than 15 per centum per annum of the adjusted basis of the vessel in the hands of such owner as of the date of such charter or taking, determined under section 113(b) of the Internal Revenue Code, and that in the event, prior to the termination of such emergency or prior to the expiration of such five years, such vessel, while owned by a citizen of the United States, is repurchased or requisitioned for title by the United States, or is lost by reason of causes for which the United States is responsible, the compensation paid to the owner of the vessel shall not exceed the adjusted basis of the vessel in the hands of such person as of the date of requisition or loss, determined under section 113(b) of the Internal Revenue Code.

GENERAL PROVISIONS

SEC. 13. (a) The Commission is authorized to reconvert or restore for normal operation in commercial services, including removal of national defense or war-service features, any vessel authorized to be sold or chartered under this Act. The Commission is authorized to make such replacements, alterations, or modifications with respect to any vessel authorized to be sold or chartered under this Act, and to install therein such special features, as may be necessary or advisable to make such vessel suitable for commercial operation on trade routes or services, or comparable as to commercial utility to other such vessels of the same general type.

(b) The provisions of section 202 of the War Mobilization and Reconversion Act of 1944 shall not apply to contracts of the Commission for or relating to construction of ships.

(c) Notwithstanding the provisions of section 27 of the Merchant Marine Act, 1920, as amended (U. S. C., title 46, sec. 883), no vessel sold or chartered by the Commission under this Act to a citizen of the United States shall be prohibited from engaging in the coastwise trade of the United States while owned by or chartered to such citizen or citizen successors in interest merely because it was under foreign registry on or after May 27, 1941, and prior to its sale or charter under this Act to such citizen, if it is otherwise entitled under the laws of the United States to engage in such trade.

(d) All moneys received by the Commission under this Act shall be deposited in the Treasury to the credit of miscellaneous receipts. The provisions of sections 201(d), 204(b), 207, 209(a), and 905(c) of the Merchant Marine Act, 1936, as amended, shall apply to all activities and functions which the Commission is authorized to perform under this Act.

REPORTS

SEC. 14. The Commission shall on July 1, 1946, and every six months thereafter, make a report to Congress with respect to all activities and transactions under this Act which have not been covered by any previous report.

TERMINATION DATE

SEC. 15. No contract of sale or of charter shall be made under this Act after December 31, 1947.

(9)

MERCHANT SHIP SALES ACT OF 1946

CHAPTER 82—PUBLIC LAW 321

[H. R. 3603]

An Act to provide for the sale of surplus war-built vessels, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

This Act may be cited as the "Merchant Ship Sales Act of 1946".

DECLARATION OF POLICY

SEC. 2. (a) It is necessary for the national security and development and maintenance of the domestic and the export and import foreign commerce of the United States that the United States have an efficient and adequate American-owned merchant marine (1) sufficient to carry its domestic water-borne commerce and a substantial portion of its water-borne export and import foreign commerce and to provide shipping service on all routes essential for maintaining the flow of such domestic and foreign water-borne commerce at all times; (2) capable of serving as a naval and military auxiliary in time of war or national emergency; (3) owned and operated under the United States flag by citizens of the United States; (4) composed of the best-equipped, safest and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel; and (5) supplemented by efficient American-owned facilities for shipbuilding and ship repair, marine insurance, and other auxiliary services.

(b) It is hereby declared to be the policy of this Act to foster the development and encourage the maintenance of such a merchant marine.

DEFINITIONS

SEC. 3. As used in this Act the term—

(a) "Commission" means the United States Maritime Commission.

(b) "War-built vessel" means an oceangoing vessel of one thousand five hundred gross tons or more, owned by the United States and suitable for commercial use—

(1) which was constructed or contracted for by or for the account of the United States during the period, beginning January 1, 1941 and ending with September 2, 1945; or

(2) which, having been constructed during the period beginning September 3, 1939, and ending with September 2, 1945, was acquired by the United States during such period.

(c) "Prewar domestic cost", as applied to any type of vessel, means the amount determined by the Commission, and published by the Commission in the Federal Register, to be the amount for which a standard vessel of such type could have been constructed (without its national defense features) in the United States under normal conditions relating to labor, materials, and other elements of cost, obtaining on or about January 1, 1941. In no case shall the prewar domestic cost of any type of vessel be considered to be greater than 80 per centum of the domestic war cost of vessels of the same type.

(d) "Statutory sales price", as applied to a particular vessel, means, in the case of a dry-cargo vessel, an amount equal to 50 per centum of the prewar domestic cost of that type of vessel, and in the case of a tanker, such term means an amount equal to 87½ per centum of the prewar domestic cost of a tanker of that type, such amount in each case being adjusted as follows:

(1) If the Commission is of the opinion that the vessel is not in class, there shall be subtracted the

amount estimated by the Commission as the cost of putting the vessel in class.

(2) If the Commission is of the opinion that the vessel lacks desirable features which are incorporated in the standard vessel used for the purpose of determining prewar domestic cost, and that the statutory sales price (unadjusted) would be lower if the standard vessel had also lacked such features, there shall be subtracted the amount estimated by the Commission as the amount of such resulting difference in statutory sales price.

(3) If the Commission is of the opinion that the vessel contains desirable features which are not incorporated in the standard vessel used for the purpose of determining prewar domestic cost, and that the statutory sales price (unadjusted) would be higher if the standard vessel had also contained such features, there shall be added the amount estimated by the Commission as the amount of such resulting difference in statutory sales price.

(4) There shall be subtracted, as representing normal depreciation, an amount computed by applying to the statutory sales price (determined without regard to this paragraph) the rate of 5 per centum per annum for the period beginning with the date of the original delivery of the vessel by its builder and ending with the date of sale or charter to the applicant in question, and there shall also be subtracted an amount computed by applying to the statutory sales price (determined without regard to this paragraph) such rate not in excess of 3 per centum per annum in the case of a vessel other than a tanker, and not in excess of 4 per centum per annum in the case of a tanker, for such period or periods of war service as the Commission determines will make reasonable allowance for excessive wear and tear by reason of war service which cannot be or has not been otherwise compensated for under this subsection.

No adjustment, except in respect of passenger vessels constructed before January 1, 1941, shall be made under this Act which will result in a statutory sales price which (1) in the case of dry-cargo vessels (except Liberty type vessels) will be less than 35 per centum of the domestic war cost of vessels of the same type, (2) in the case of any Liberty type vessel will be less than 31½ per centum of the domestic war cost of vessels of such type, or (3) in the case of a tanker will be less than 50 per centum of the domestic war cost of tankers of the same type. For the purposes of this Act, except section 5, all Liberty vessels shall be considered to be vessels of one and the same type.

(c) "Domestic war cost" as applied to any type of vessel means the average construction cost (without national defense features) as determined by the Commission, of vessels of such type delivered during the calendar year 1944, except in case of any type of vessel the principal deliveries of which were made after the calendar year 1944, there shall be used in lieu of such year 1944 such period of not less than six consecutive calendar months as the Commission shall find to be most representative of war production costs of such type.

(f) "Cessation of hostilities" means the date proclaimed by the President as the date of the cessation of hostilities in the present war, or the date so specified in a concurrent resolution of the two Houses of the Congress, whichever is the earlier.

(g) "Citizen of the United States" includes a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 2 of the Shipping Act of 1916, as amended. The term "affiliated interest" as used in sections 9 and 10 of this Act includes any person affiliated or associated with a citizen applicant for benefits under this Act who the Commission, pursuant to rules and regulations prescribed hereunder, determines should be so included in order to carry out the policy and purposes of this Act.

SALES OF WAR-BUILT VESSELS TO CITIZENS

SEC. 4. (a) Any citizen of the United States may make application to the Commission to purchase a war-built vessel, under the jurisdiction and control of the Commission, at the statutory sales price. If the Commission determines that the applicant possesses the ability, experience, financial resources, and other qualifications, necessary to enable him to operate and maintain the vessel under normal competitive conditions, and that such sale will aid in carrying out the policies of this Act, the Commission shall sell such vessel to the applicant at the statutory sales price.

(b) At the time of sale, the purchaser shall pay to the Commission at least 25 per centum of the statutory sales price. The balance of the statutory sales price shall be payable in not more than twenty equal annual installments, with interest on the portion of the statutory sales price remaining unpaid, at the rate of $3\frac{1}{2}$ per centum per annum, or shall be payable under such other amortization provisions which permit the purchaser to accelerate payment of the unpaid balance as the Commission deems satisfactory. The obligation of the purchaser with respect to payment of such unpaid balance with interest shall be secured by a preferred mortgage on the vessel sold.

(c) The contract of sale, and the mortgage given to secure the payment of the unpaid balance of the purchase price, shall not restrict the lawful or proper use or operation of the vessel.

CHARTER OF WAR-BUILT VESSELS TO CITIZENS

SEC. 5. (a) Any citizen of the United States and, until July 4, 1946, any citizen of the Commonwealth of the Philippines, may make application to the Commission to charter a war-built dry-cargo vessel, under the jurisdiction and control of the Commission, for bare-boat use. The Commission may, in its discretion, either reject or approve the application, but shall not so approve unless in its opinion

the chartering of such vessel to the applicant would be consistent with the policies of this Act. No vessel shall be chartered under this section until sixty days after publication of the applicable prewar domestic cost in the Federal Register under subsection 3 (c) of this Act.

(b) The charter hire for any vessel chartered under the provisions of this section shall be fixed by the Commission at such rate as the Commission determines to be consistent with the policies of this Act, but, except upon the affirmative vote of not less than four members of the Commission, such rate shall not be less than 15 per centum per annum of the statutory sales price (computed as of the date of charter). Except in the case of vessels having passenger accommodations for not less than eighty passengers, rates of charter hire fixed by the Commission on any war-built vessel which differ from the rate specified in this subsection shall not be less than the prevailing world market charter rates for similar vessels for similar use as determined by the Commission.

(c) The provisions of sections 708, 709, 710, 712, and 713, of the Merchant Marine Act, 1936, as amended, shall be applicable to charters made under this section.

SALE OF WAR-BUILT VESSELS TO PERSONS NOT CITIZENS OF THE UNITED STATES

SEC. 6. (a) Any person not a citizen of the United States may make application to the Commission to purchase a war-built vessel (other than a P-2 type or other passenger type and other than a Liberty type collier or tanker), under the jurisdiction and control of the Commission. If the Commission determines—

(1) that the applicant has the financial resources, ability, and experience necessary to enable him to fulfill all obligations with respect to payment of any deferred portion of the purchase price, and that sale of the vessel to him would not be inconsistent with any policy of the United States in permitting foreign sales under section 9 of the Shipping Act, 1916, as amended; and

(2) after consultation with the Secretary of the Navy, that such vessel is not necessary to the defense of the United States; and

(3) that such vessel is not necessary to the promotion and maintenance of an American merchant marine described in section 2; and

(4) that for a reasonable period of time, which in the case of tankers and "C" type vessels shall not end before ninety days after publication of the applicable prewar domestic cost in the Federal Register under subsection 3 (c) of this Act, such vessel has been available for sale at the statutory sales price to citizens of the United States or for charter under section 5 to citizens of the United States, and that no responsible offer has been made by a citizen of the United States to purchase or charter such vessel;

then the Commission is authorized to approve the application and sell such vessel to the applicant at not less than the statutory sales price. In case of application submitted by a citizen of the Commonwealth of the Philippines, paragraph (4) of this subsection shall not apply. Notwithstanding paragraph (4) of this subsection, not to exceed ten "C" type vessels, except C-3's, may be sold to non-citizens at any time after such date of publication at not less than the statutory sales price.

(b) Notwithstanding any other provision of law, no war-built vessel shall be sold to any person not a citizen of the United States, except in accordance with subsection (a), or upon terms or conditions more favorable than those at which such war-built vessel is offered to a citizen of the United States, but where the vessel so sold is being transferred to foreign register and flag, the mortgage securing the unpaid balance of the purchase price and interest thereon shall contain provisions according to such mortgage the priorities over other liens and encumbrances accorded such mortgages on merchant vessels under the laws of such registry and flag.

ORDER OF PREFERENCES

SEC. 7. (a) In exercising its powers under this Act and under other provisions of law with respect to the sale and charter of war-built vessels, the Commission shall give preference to citizen applicants over noncitizen applicants, and as between citizen applicants to purchase and citizen applicants to charter, shall, so far as practicable and consistent with the policies of this Act, give preference to citizen applicants to purchase. In determining the order of preference between citizen applicants to purchase or between citizen applicants to charter, the Commission shall consider, among other relevant factors, the extent to which losses and requisitions of the applicant's prewar tonnage have been overcome and shall in all cases, in the sale and charter of a war-built vessel, give preference in such sale or charter, as the case may be, to the former owner of such vessel, or to the person for whom the vessel was constructed but to whom delivery thereof was prevented by the United States. In determining the order of preference between noncitizen applicants to purchase, the Commission shall give preference to citizens of the Commonwealth of the Philippines, and in determining the order of preference between other noncitizen applicants to purchase shall consider the extent to which losses in prewar tonnage of the various member nations of the United Nations, incurred in the interests of the war effort, have been overcome, and the relative effects of such losses upon the national economy of such member nations.

(b) After the cessation of hostilities, operation of vessels in commercial service by the United States, either for its own account or through operating agents under agency agreements, shall, except as to the Panama Railroad Company and other services specifically authorized by law, be continued only to the extent necessary to effect orderly transfer of vessels to private operation.

EXCHANGE OF VESSELS

SEC. 8. (a) The Commission is authorized to acquire, in exchange for an allowance of a credit on the purchase of any war-built vessel under section 4 or any vessel acquired through exchange under subsection (d) of this section—

(1) Any vessel owned by a citizen of the United States, other than a vessel purchased under this Act; or

(2) Any vessel owned by a foreign corporation, if—

(A) the vessel was constructed in the United States, and has, after December 7, 1941, been chartered to, or otherwise taken for use by, the United States; and

(B) the controlling interest in such corporation is, at the time of acquisition of such vessel hereunder, owned by a citizen or citizens of the United States, and has been so owned for a period of at least three years immediately prior to such acquisition; and

(C) such corporation agrees that the war-built vessel purchased with the use of such credit shall be owned by such citizen or citizens and shall be documented under the laws of the United States.

Such allowance shall not be applied upon the cash payment required under section 4. A war-built vessel shall be deemed a "new vessel" for the purpose of section 511 of the Merchant Marine Act, 1936, as amended, and section 510 (e) of such Act shall be applicable with respect to vessels exchanged under this section to the same extent as applicable to obsolete vessels exchanged under section 510 of such Act.

(b) (1) If, prior to December 31, 1946, the owner of a vessel eligible for exchange under subsection (a) makes a firm offer binding for at least ninety days, to transfer the vessel to the Commission in exchange for an allowance of credit provided in subsection (a), the amount of such allowance shall be the fair and reasonable value of the vessel as

determined by the Commission under this section. In making such determination the Commission shall consider: (A) The value of the vessel determined in accordance with the standards of valuation established pursuant to Executive Order 9387 (8 F. R. 14105) as of the date of such offer, (B) any liability of the United States for repair and restoration of the vessel, (C) the utility value of the vessel, (D) the effect of this Act upon the market value of such vessel, and (E) the public interest in promoting exchanges of vessels as a means of rehabilitating and modernizing the American merchant marine. In no event shall the amount of such allowance, in case of dry cargo vessels and tankers, exceed (A) (1) if the vessel or vessels tendered in exchange are of equal or greater dead weight tonnage than the war-built vessel or vessels being acquired, $33\frac{1}{3}$ per centum of the statutory sales price (unadjusted) of the war-built vessel or vessels, or (2) if the vessel or vessels tendered in exchange are of lesser dead-weight tonnage than the war-built vessel or vessels, such proportionate part of $33\frac{1}{3}$ per centum of the statutory sales price (unadjusted) of such war-built vessel or vessels as the dead-weight tonnage of such vessel or vessels tendered in exchange bear to the dead-weight tonnage of such war-built vessel or vessels, or (B) the liability of the United States in connection with the repair or restoration of such vessel under any charter to which the United States is a party, whichever is higher. In the case of passenger vessels tendered in exchange, the amount of the allowance shall not exceed the percentages of statutory sales price computed under (A) (1) and (2) above by gross tons instead of dead-weight tons, or such liability for the repair or restoration of such passenger vessel, whichever is the higher. In any case where the vessel tendered in exchange was acquired from the United States, the exchange allowance under this section shall not exceed the price paid the United States therefor plus the depreciated cost of any improvements thereon. In the case of any vessel tendered in exchange which has been restored to condition by the United States for the purpose of redelivering such vessel to its owner in compliance with the charter of such vessel with

the United States, or where, for such restoration a cash allowance has been made to the owner, there shall be deducted from the amount of the allowance of credit for such vessel determined by the Commission under this section, an amount equal to the liability of the United States for such restoration or such cash allowance made to the owner.

(2) If, after such offer is made, and prior to its acceptance, or prior to the acquisition of the vessel, by the Commission, the vessel is lost by reason of causes for which the United States is responsible, then in lieu of paying the owner any amount on account of such loss, the offer shall, for the purposes of subsection (a) and this subsection, be considered as having been accepted and the vessel as having been acquired by the Commission under subsection (a) immediately prior to such loss.

(c) The Commission is also authorized to make available any war-built vessel for transfer in complete or partial settlement of any claim against the United States (1) for just compensation upon requisition for title of any vessel, or (2) for indemnity for the loss of any vessel which was acquired for use by the United States, but only to the extent such vessel is available for sale to the claimant.

(d) In the case of any vessel constructed in the United States after January 1, 1937, which has been taken by the United States for use in any manner, the Commission, if in its opinion the transfer would aid in carrying out the policies of this Act, is authorized to transfer to the owner of such vessel another vessel which is deemed by the Commission to be of comparable type with adjustments for depreciation and difference in design or speed, and to the extent applicable, adjustments with respect to the retained vessel as provided for in section 9, and such other adjustments and terms and conditions, including transfer of mortgage obligations in favor of the United States binding upon the old vessel, as the Commission may prescribe.

ADJUSTMENT FOR PRIOR SALES TO CITIZENS

SEC. 9. (a) A citizen of the United States who on the date of the enactment of this Act—

(1) owns a vessel which he purchased from the Commission prior to such date, and which was delivered by its builder after December 31, 1940; or

(2) is party to a contract with the Commission to purchase from the Commission a vessel, which has not yet been delivered to him; or

(3) owns a vessel on account of which a construction-differential subsidy was paid, or agreed to be paid, by the Commission under section 504 of the Merchant Marine Act, 1936, as amended, and which was delivered by its builder after December 31, 1940; or

(4) is party to a contract with a shipbuilder for the construction for him of a vessel, which has not yet been delivered to him, and on account of which a construction-differential subsidy was agreed, prior to such date, to be paid by the Commission under section 504 of the Merchant Marine Act, 1936, as amended;

shall, except as hereinafter provided, be entitled to an adjustment in the price of such vessel under this section if he makes application therefor, in such form and manner as the Commission may prescribe, within sixty days after the date of publication of the applicable prewar domestic costs in the Federal Register under section 3 (c) of this Act. No adjustment shall be made under this section in respect of any vessel the contract for the construction of which was made after September 2, 1945, under the provisions of title V (including section 504) or title VII of the Merchant Marine Act, 1936, as amended.

(b) Such adjustment shall be made, as hereinafter provided, by treating the vessel as if it were being sold to the applicant on the date of the enactment of this Act, and not before that time. The amount of such adjustment shall be determined as follows:

(1) The Commission shall credit the applicant with the excess of the cash payments made upon the original purchase price of the vessel over 25 per centum of the statutory sales price of the vessel as of such date of enactment. If such payment was less than 25 per centum of the statutory sales price of the vessel, the applicant shall pay the difference to the Commission.

(2) The applicant's indebtedness under any mortgage to the United States with respect to the vessel shall be adjusted.

(3) The adjusted mortgage indebtedness shall be in an amount equal to the excess of the statutory sales price of the vessel as of the date of the enactment of this Act over the sum of the cash payment retained by the United States under paragraph (1) plus the readjusted trade-in allowance (determined under paragraph (7)) with respect to any vessel exchanged by the applicant on the original purchase. The adjusted mortgage indebtedness shall be payable in equal annual installments thereafter during the remaining life of such mortgage with interest on the portion of the statutory sales price remaining unpaid at the rate of $3\frac{1}{2}$ per centum per annum.

(4) The Commission shall credit the applicant with the excess, if any, of the sum of the cash payments made by the applicant upon the original purchase price of the vessel plus the readjusted trade-in allowance (determined under paragraph (7)) over the statutory sales price of the vessel as of the date of the enactment of this Act to the extent not credited under paragraph (1).

(5) The Commission shall also credit the applicant with an amount equal to interest at the rate of $3\frac{1}{2}$ per centum per annum (for the period beginning with the date of the original delivery of the vessel to the applicant and ending with the date of the enactment of this Act) on the excess of the original purchase price of the vessel over the amount of any allowance allowed by the

Commission on the exchange of any vessel on such purchase; the amount of such credit first being reduced by any interest on the original mortgage indebtedness accrued up to such date of enactment and unpaid. Interest so accrued and unpaid shall be canceled.

(6) The applicant shall credit the Commission with all amounts paid by the United States to him as charter hire for use of the vessel (exclusive of service, if any, required under the terms of the charter) under any charter party made prior to the date of the enactment of this Act, and any charter hire for such use accrued up to such date of enactment and unpaid shall be canceled; and the Commission shall credit the applicant with the amount that would have been paid by the United States to the applicant as charter hire for bareboat use of vessels exchanged by the applicant on the original purchase (for the period beginning with date on which the vessels so exchanged were delivered to the Commission and ending with the date of the enactment of this Act).

(7) The allowance made to the applicant on any vessel exchanged by him on the original purchase shall be readjusted so as to limit such allowance to the amount provided for under section 8.

(8) There shall be subtracted from the sum of the credits in favor of the Commission under the foregoing provisions of this subsection the amount of any overpayments of Federal taxes by the applicant resulting from the application of subsection (c) (1), and there shall be subtracted from the sum of the credits in favor of the applicant under the foregoing provisions of this subsection the amount of any deficiencies in Federal taxes of the applicant resulting from the application of subsection (c) (1). If, after making such subtractions, the sum of the credits in favor of the applicant exceeds the sum of the credits in favor of the Commission, such excess shall be paid by the Commission to the applicant. If, after making such subtractions, the sum of the

credits in favor of the Commission exceeds the sum of the credits in favor of the applicant, such excess shall be paid by the applicant to the Commission. Upon such payment by the Commission or the applicant, such overpayments shall be treated as having been refunded and such deficiencies as having been paid.

For the purposes of this subsection, the purchase price of a vessel on account of which a construction-differential subsidy was paid or agreed to be paid under section 504 of the Merchant Marine Act, 1936, as amended, shall be the net cost of the vessel to the owner.

(c) An adjustment shall be made under this section only if the applicant enters into an agreement with the Commission binding upon the citizen applicant and any affiliated interest to the effect that—

(1) depreciation and amortization allowed or allowable with respect to the vessel up to the date of the enactment of this Act for Federal tax purposes shall be treated as not having been allowable; amounts credited to the Commission under subsection (b) (6) shall be treated for Federal tax purposes as not having been received or accrued as income; amounts credited to the applicant under subsection (b) (5) and (6) shall be treated for Federal tax purposes as having been received and accrued as income in the taxable year in which falls the date of the enactment of this Act;

(2) the liability of the United States for use (exclusive of service, if any, required under the terms of the charter) of the vessel on or after the date of the enactment of this Act under any charter party shall not exceed 15 per centum per annum of the statutory sales price of the vessel as of such date of enactment; and the liability of the United States under any such charter party for loss of the vessel shall be determined on the basis of the statutory sales price as of the date of the enactment of this Act, depreciated to the date of loss at the rate of 5 per centum per annum; and

(3) in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bare-boat charter made, on or after the date of the enactment of this Act, the compensation to be paid to the purchaser, his receivers, and trustees, shall in no event be greater than 15 per centum per annum of the statutory sales price as of such date.

(d) Section 506 of the Merchant Marine Act, 1936, as amended, shall not apply with respect to (1) any vessel which is eligible for an adjustment under this section, or (2) any vessel described in clause (1), (2), (3), or (4) of subsection (a) of this section, the contract for the construction of which is made after September 2, 1945, and prior to the date of enactment of this Act.

LIMITATION ON ELIGIBILITY FOR BENEFITS OF ACT

SEC. 10. No person shall be eligible to purchase or charter a war-built vessel under this Act, or to receive an adjustment under section 9, unless such person makes an agreement with the Commission binding upon such person and any affiliated interest to the effect that the liability of the United States under any charter party or taking for use, made or effected prior to the date of the enactment of this Act, for the loss, on or after such date of enactment and prior to September 3, 1947, of any vessel owned by such person and under charter to the United States (excluding a vessel with respect to which an adjustment is made under section 9) shall be limited to an amount equal to just compensation as of the date of said loss, determined pursuant to existing law, or such amount as may be mutually agreed upon subsequent to the date of the enactment of this Act as just compensation under the provisions of existing law.

NATIONAL DEFENSE RESERVE FLEET

SEC. 11. (a) The Commission shall place in a national defense reserve (1) such vessels owned by it as, after consultation with the Secretary of War and the Secretary of the Navy, it deems should be retained for the national defense, and (2) all vessels owned by it on December 31, 1947, for the sale of which a contract has not been made by that time, except those determined by the Commission to be of insufficient value for commercial and national defense purposes to warrant their maintenance and preservation, and except those vessels, the contracts for the construction of which are made after September 2, 1945, under the provisions of the Merchant Marine Act, 1936, as amended. A vessel under charter on December 31, 1947, shall not be placed in the reserve until the termination of such charter. Unless otherwise provided for by law, all vessels placed in such reserve shall be preserved and maintained by the Commission for the purpose of national defense. A vessel placed in such reserve shall in no case be used for commercial operation, except that any such vessel may be used during any period in which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936, as amended.

(b) Any war-built vessel may be made available by the Commission to any State maintaining a marine school or nautical branch in accordance with the Act of July 29, 1941 (Public Law 191, Seventy-seventh Congress; 55 Stat. 607).

GENERAL PROVISIONS

SEC. 12. (a) The Commission is authorized to reconvert or restore for normal operation in commercial services, including removal of national defense or war-service features, any vessel authorized to be sold or chartered under this Act. The Commission is authorized to make such replacements, alterations, or modifications with respect to any vessel authorized to be sold or chartered under this Act, and to install therein such special features, as may be necessary or advisable to make such vessel suitable for

commercial operation on trade routes or services or comparable as to commercial utility to other such vessels of the same general type.

(b) The provisions of section 202 of the War Mobilization and Reconversion Act of 1944 shall not apply to contracts of the Commission for or relating to construction of ships.

(c) Notwithstanding the provisions of section 27 of the Merchant Marine Act, 1920, as amended (U. S. C., title 46, sec. 883), no vessel sold or chartered by the Commission under this Act to a citizen of the United States shall be prohibited from engaging in the coastwise trade of the United States while owned by or chartered to such citizen or citizen successors in interest merely because it was under foreign registry on or after May 27, 1941, and prior to its sale or charter under this Act to such citizen, if it is otherwise entitled under the laws of the United States to engage in such trade.

(d) All moneys received by the Commission under this Act shall be deposited in the Treasury to the credit of miscellaneous receipts. The provisions of sections 201 (d), 204 (b), 207, 209 (a), and 905 (c) of the Merchant Marine Act, 1936, as amended, shall apply to all activities and functions which the Commission is authorized to perform under this Act.

REPORTS

SEC. 13. The Commission shall on July 1, 1946, and every three months thereafter, make a report to Congress with respect to all activities or transactions under this Act which have not been covered by any previous such report.

TERMINATION DATE

SEC. 14. No contract of sale or of charter shall be made under this Act after December 31, 1947.

APPENDIX C.

Comparison of Section 9 Provisions
in Various Acts.

H. R. 3603
as recommended by
House Committee
(Original H. R. 3603)

("Qualification Section")

(a) A citizen of the United States who on the date of the enactment of this Act—

(1) owns a vessel which he purchased from the Commission prior to such date, and which was delivered by its builder after December 31, 1940; or

(2) is party to a contract with the Commission to purchase from the Commission a vessel, which has not yet been delivered to him; or

(3) owns a vessel on account of which a construction-differential subsidy was paid, or agreed to be paid, by the Commission under section 504 of the Merchant Marine Act, 1936, as amended, and which was delivered by its builder after December 31, 1940; or

(4) is party to a contract with a shipbuilder for the construction for him of a vessel, which has not yet been delivered to him, and on account of which a construction-differential subsidy was agreed, prior to such date, to be paid by the Commission under section 504 of the Merchant Marine Act, 1936, as amended;

H. R. 3603
as adopted by
House of Representatives
(House bill)

(a) A citizen of the United States who on the date of the enactment of this Act—

(1) owns a vessel which he purchased from the Commission prior to such date, and which was delivered by its builder after December 31, 1940; or

(2) is party to a contract with the Commission to purchase from the Commission a vessel, which has not yet been delivered to him; or

(3) owns a vessel on account of which a construction-differential subsidy was paid, or agreed to be paid, by the Commission under section 504 of the Merchant Marine Act, 1936, as amended, and which was delivered by its builder after December 31, 1940; or

(4) is party to a contract with a shipbuilder for the construction for him of a vessel, which has not yet been delivered to him, and on account of which a construction-differential subsidy was agreed, prior to such date, to be paid by the Commission under section 504 of the Merchant Marine Act, 1936, as amended;

H. R. 3603
as amended by Senate
(Senate amendment)

(a) A citizen of the United States who on the date of the enactment of this Act—

(1) owns a vessel which he purchased from the Commission prior to such date, and which was delivered by its builder after December 31, 1940; or

(2) is party to a contract with the Commission to purchase from the Commission a vessel, which has not yet been delivered to him; or

(3) owns a vessel on account of which a construction-differential subsidy was paid, or agreed to be paid, by the Commission under section 504 of the Merchant Marine Act, 1936, as amended, and which was delivered by its builder after December 31, 1940; or

(4) is party to a contract with a shipbuilder for the construction for him of a vessel, which has not yet been delivered to him, and on account of which a construction-differential subsidy was agreed, prior to such date, to be paid by the Commission under section 504 of the Merchant Marine Act, 1936, as amended;

Merchant Ship Sales Act
of 1946
(H. R. 3603 as adopted)

(a) A citizen of the United States who on the date of the enactment of this Act—

(1) owns a vessel which he purchased from the Commission prior to such date, and which was delivered by its builder after December 31, 1940; or

(2) is party to a contract with the Commission to purchase from the Commission a vessel, which has not yet been delivered to him; or

(3) owns a vessel on account of which a construction-differential subsidy was paid, or agreed to be paid, by the Commission under section 504 of the Merchant Marine Act, 1936, as amended, and which was delivered by its builder after December 31, 1940; or

(4) is party to a contract with a shipbuilder for the construction for him of a vessel, which has not yet been delivered to him, and on account of which a construction-differential subsidy was agreed, prior to such date, to be paid by the Commission under section 504 of the Merchant Marine Act, 1936, as amended;

H. R. 3603
as recommended by
House Committee

shall be entitled to an adjustment in the price of such vessel under this section if he makes application therefor, in such form and manner as the Commission may prescribe, within sixty days after the date of the enactment of this Act.

(b) Such adjustment shall be made by crediting the amount thereof against any mortgage indebtedness to the Commission with respect to such vessel (prorated over the unpaid installments thereof), and by refunding the balance, if any.

H. R. 3603
as adopted by
House of Representatives

shall, except as hereinafter provided, be entitled to an adjustment in the price of such vessel under this section if he makes application therefor, in such form and manner as the Commission may prescribe, within sixty days after the date of the enactment of this Act. No adjustment shall be made under this section in respect of any vessel the contract for the construction of which was made after June 30, 1945, under the provisions of title V (including sec. 504) or title VII of the Merchant Marine Act, 1936, as amended.

(no similar provision)

H. R. 3603
as amended by Senate

shall, except as hereinafter provided, be entitled to an adjustment in the price of such vessel under this section if he makes application therefor, in such form and manner as the Commission may prescribe, within sixty days after the date of publication of the applicable prewar domestic costs in the Federal Register under section 3 (c) of this Act. No adjustment shall be made under this section in respect of any vessel the contract for the construction of which was made after September 2, 1945, under the provisions of title V (including section 504) or title VII of the Merchant Marine Act, 1936, as amended.

(b) Such adjustment shall be made by crediting the amount thereof against any mortgage indebtedness to the Commission with respect to such vessel (prorated over the unpaid installments thereof), and by refunding the balance, if any.

Merchant Ship Sales Act
of 1946

shall, except as hereinafter provided, be entitled to an adjustment in the price of such vessel under this section if he makes application therefor, in such form and manner as the Commission may prescribe, within sixty days after the date of publication of the applicable prewar domestic costs in the Federal Register under section 3 (c) of this Act. No adjustment shall be made under this section in respect of any vessel the contract for the construction of which was made after September 2, 1945, under the provisions of title V (including section 504) or title VII of the Merchant Marine Act, 1936, as amended.

(no similar provision)

H. R. 3603
as recommended by
House Committee

("Adjustment Section")

(c) The amount of the adjustment under this section shall be the excess of—

(1) the purchase price of such vessel, reduced by an amount representing both normal depreciation, and excessive wear and tear by reason of war service, at the same rate and for the same period as that used in computing the statutory sales price under paragraph (2), or in lieu thereof by the amount of any amortization applicable up to such date under section 23 (t) of the Internal Revenue Code if such amount is larger; over

(2) the statutory sales price of the vessel as of the date of the enactment of this Act, determined as if the vessel were owned by the Commission.

H. R. 3603
as adopted by
House of Representatives

(b) Such adjustment shall be made, as hereinafter provided, by treating the vessel as if it were being sold to the applicant on the date of the enactment of this Act, and not before that time. The amount of such adjustment shall be determined as follows:

(1) The Commission shall credit the applicant with the excess of the cash payments made upon the original purchase price of the vessel over 25 per centum of the statutory sales price of the vessel as of such date of enactment. If such payment was less than 25 per centum of the statutory sales price of the vessel, the applicant shall pay the difference to the Commission.

(2) The mortgage indebtedness of the applicant with respect to the vessel shall be canceled, and a new mortgage indebtedness, payable in not more than twenty equal annual installments, with interest on the portion of the statutory sales price remaining unpaid, at the rate of 3½ per centum per annum, shall be assumed by the applicant.

(3) The new mortgage indebtedness shall be in an amount equal to the excess of the statutory sales price of the vessel as of the date of the enactment of this Act over the sum of the cash payment retained by the United States under paragraph (1) plus the readjusted trade-in allowance (determined under paragraph (7)) with re-

H. R. 3603
as amended by Senate

(c) The amount of the adjustment under this section shall be the excess of—

(1) the purchase price of such vessel, reduced by an amount representing both normal depreciation at the rate of 5 per centum per annum from the date of delivery to the purchaser to the date of enactment of this Act, and excessive wear and tear by reason of war service, at the same rate and for the same period as that used in computing the statutory sales price under paragraph (2), or in lieu thereof by the amount of any amortization applicable up to such date under section 23 (t) of the Internal Revenue Code if such amount is larger; over

(2) the statutory sales price of the vessel as of the date of the enactment of this Act, determined as if the vessel were owned by the Commission, plus, in case a credit as part of the purchase price of the vessel was allowed for an obsolete vessel traded in under section 510 of the Merchant Marine Act, as amended, the excess, if any, of such credit above the value of such obsolete vessel determined by the Commission, as of the date of transfer thereof to the Commission, in accord with the standards of valuation in section 8 of this Act.

Merchant Ship Sales Act
of 1946

(b) Such adjustment shall be made, as hereinafter provided, by treating the vessel as if it were being sold to the applicant on the date of the enactment of this Act, and not before that time. The amount of such adjustment shall be determined as follows:

(1) The Commission shall credit the applicant with the excess of the cash payments made upon the original purchase price of the vessel over 25 per centum of the statutory sales price of the vessel as of such date of enactment. If such payment was less than 25 per centum of the statutory sales price of the vessel, the applicant shall pay the difference to the Commission.

(2) The applicant's indebtedness under any mortgage to the United States with respect to the vessel shall be adjusted.

(3) The adjusted mortgage indebtedness shall be in an amount equal to the excess of the statutory sales price of the vessel as of the date of the enactment of this Act over the sum of the cash payment retained by the United States under paragraph (1) plus the readjusted trade-in allowance (determined under paragraph (7)) with respect to any vessel exchanged by the applicant on the original purchase. The adjusted mortgage indebtedness shall be payable in equal annual

spect to any vessel exchanged by the applicant on the original purchase.

(4) The Commission shall credit the applicant with the excess, if any, of the sum of the cash payments made by the applicant upon the original purchase price of the vessel plus the readjusted trade-in allowance (determined under paragraph (7)) over the statutory sales price of the vessel as of the date of the enactment of this Act to the extent not credited under paragraph (1).

(5) The Commission shall also credit the applicant with an amount equal to interest at the rate of $3\frac{1}{2}$ per centum per annum (for the period beginning with the date of the original delivery of the vessel to the applicant and ending with the date of the enactment of this Act) on the excess of the original purchase price of the vessel over the amount of any allowance allowed by the Commission on the exchange of any vessel on such purchase; the amount of such credit first being reduced by any interest on the original mortgage indebtedness accrued up to such date of enactment and unpaid. Interest so accrued and unpaid shall be canceled.

(6) The applicant shall credit the Commission with all amounts paid by the United States to him as charter hire for use of the vessel (exclusive of

installments thereafter during the remaining life of such mortgage with interest on the portion of the statutory sales price remaining unpaid at the rate of $3\frac{1}{2}$ per centum per annum.

(4) The Commission shall credit the applicant with the excess, if any, of the sum of the cash payments made by the applicant upon the original purchase price of the vessel plus the readjusted trade-in allowance (determined under paragraph (7)) over the statutory sales price of the vessel as of the date of the enactment of this Act to the extent not credited under paragraph (1).

(5) The Commission shall also credit the applicant with an amount equal to interest at the rate of $3\frac{1}{2}$ per centum per annum (for the period beginning with the date of the original delivery of the vessel to the applicant and ending with the date of the enactment of this Act) on the excess of the original purchase price of the vessel over the amount of any allowance allowed by the Commission on the exchange of any vessel on such purchase, the amount of such credit first being reduced by any interest on the original mortgage indebtedness accrued up to such date of enactment and unpaid. Interest so accrued and unpaid shall be canceled.

H. R. 3603
as recommended by
House Committee

H. R. 3603
as adopted by
House of Representatives

service, if any, required under the terms of the charter) under any charter party made prior to the date of the enactment of this Act, and any charter hire for such use accrued up to such date of enactment and unpaid shall be canceled; and the Commission shall credit the applicant with the amount that would have been paid by the United States to the applicant as charter hire for bare boat use of vessels exchanged by the applicant on the original purchase (for the period beginning with date on which the vessels so exchanged were delivered to the Commission and ending with the date of the enactment of this Act).

(7) The allowance made to the applicant on any vessel exchanged by him on the original purchase shall be readjusted so as to limit such allowance to the amount provided for under section 8.

(8) There shall be subtracted from the sum of the credits in favor of the Commission under the foregoing provisions of this subsection the amount of any overpayments of Federal taxes by the applicant resulting from the application of subsection (c) (1), and there shall be subtracted from the sum of the credits in favor of the applicant under the foregoing provisions of this subsection the amount of any deficiencies in Federal taxes of the applicant

H. R. 3603
as amended by Senate

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(6) The applicant shall credit the Commission with all amounts paid by the United States to him as charter hire for use of the vessel (exclusive of service, if any, required under the terms of the charter) under any charter party made prior to the date of the enactment of this Act, and any charter hire for such use accrued up to such date of enactment and unpaid shall be canceled, and the Commission shall credit the applicant with the amount that would have been paid by the United States to the applicant as charter hire for bare boat use of vessels exchanged by the applicant on the original purchase (for the period beginning with date on which the vessels so exchanged were delivered to the Commission and ending with the date of the enactment of this Act).

(7) The allowance made to the applicant on any vessel exchanged by him on the original purchase shall be readjusted so as to limit such allowance to the amount provided for under section 8.

(8) There shall be subtracted from the sum of the credits in favor of the Commission under the foregoing provisions of this subsection the amount of any overpayments of Federal taxes by the applicant resulting from the application of subsection (c) (1), and there shall be subtracted from the sum

H. R. 3603
as recommended by
House Committee

For the purposes of paragraph (1), the purchase price of a vessel on account of which a construction differential subsidy was paid or agreed to be paid under section 504 of the Merchant Marine Act, 1936, as amended, shall be the net cost of the vessel to the owner.

H. R. 3603
as adopted by
House of Representatives

resulting from the application of subsection (c) (1). If, after making such subtractions, the sum of the credits in favor of the applicant exceeds the sum of the credits in favor of the Commission, such excess shall be paid by the Commission to the applicant. If, after making such subtractions, the sum of the credits in favor of the Commission exceeds the sum of the credits in favor of the applicant, such excess shall be paid by the applicant to the Commission. Upon such payment by the Commission or the applicant, such overpayments shall be treated as having been refunded and such deficiencies as having been paid.

For the purposes of this subsection, the purchase price of a vessel on account of which a construction differential subsidy was paid or agreed to be paid under section 504 of the Merchant Marine Act, 1936, as amended, shall be the net cost of the vessel to the owner.

H. R. 3603
as amended by Senate

For the purposes of paragraph (1) the purchase price of a vessel on account of which a construction differential subsidy was paid or agreed to be paid under section 504 of the Merchant Marine Act, 1936, as amended, shall be the net cost of the vessel to the owner.

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of 1946

of the credits in favor of the applicant under the foregoing provisions of this subsection the amount of any deficiencies in Federal taxes of the applicant resulting from the application of subsection (c) (1). If, after making such subtractions, the sum of the credits in favor of the applicant exceeds the sum of the credits in favor of the Commission, such excess shall be paid by the Commission to the applicant. If, after making such subtractions, the sum of the credits in favor of the Commission exceeds the sum of the credits in favor of the applicant, such excess shall be paid by the applicant to the Commission. Upon such payment by the Commission or the applicant, such overpayments shall be treated as having been refunded and such deficiencies as having been paid.

For the purposes of this subsection, the purchase price of a vessel on account of which a construction differential subsidy was paid or agreed to be paid under section 501 of the Merchant Marine Act, 1936, as amended, shall be the net cost of the vessel to the owner.

H. R. 3603
as recommended by
House Committee

("Conditions Section")

(d) An adjustment shall be made under this section only if there are included in the adjustment agreement provisions to the effect that—

(no similar provision)

(1) the liability of the United States for bare boat use of the vessel under any charter party made prior to the date of the enactment of this Act shall be limited to 15 per centum per annum of the statutory sales price as of such date; and

H. R. 3603
as adopted by
House of Representatives

(c) An adjustment shall be made under this section only if an adjustment is applied for on all vessels of the applicant with respect to which an adjustment may be made under this section, and then only if the applicant enters into an agreement with the Commission to the effect that, in the case of each such vessel—

(1) depreciation and amortization allowed or allowable with respect to the vessel up to the date of the enactment of this Act for Federal tax purposes shall be treated as not having been allowable; amounts credited to the Commission under subsection (b) (6) shall be treated for Federal tax purposes as not having been received or accrued as income; amounts credited to the applicant under subsection (b) (6) shall be treated for Federal tax purposes as having been received and accrued as income in the taxable year in which falls the date of the enactment of this Act; and the amount credited by the Commission under subsection (b) (5) shall be treated for Federal tax purposes as having been received and accrued as income ratably over the period beginning with the date of the original delivery of the vessel to the applicant and ending with the day before the date of the enactment of this Act;

(2) the liability of the United States for use (exclusive of service, if any, required under the terms of the charter) of the vessel on or after the

H. R. 3603
as amended by Senate

(d) An adjustment shall be made under this section only if there are included in the adjustment agreement provisions binding upon the citizen applicant and any affiliated interest to the effect that—

(see (e) at C-9)

(1) the liability of the United States for use (exclusive of service, if any, required under the terms of the charter) of the vessel under any char-

Merchant Ship Sales Act
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(c) An adjustment shall be made under this section only if the applicant enters into an agreement with the Commission binding upon the citizen applicant and any affiliated interest to the effect that—

(1) depreciation and amortization allowed or allowable with respect to the vessel up to the date of the enactment of this Act for Federal tax purposes shall be treated as not having been allowable; amounts credited to the Commission under subsection (b) (6) shall be treated for Federal tax purposes as not having been received or accrued as income; amounts credited to the applicant under subsection (b) (5) and (6) shall be treated for Federal tax purposes as having been received and accrued as income in the taxable year in which falls the date of the enactment of this Act;

(2) the liability of the United States for use (exclusive of service, if any, required under the terms of the charter) of the vessel on or after the

H. R. 3603
as recommended by
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(2) the liability of the United States under any such charter party for loss of the vessel shall be determined on the basis of the statutory sales price as of the date of the enactment of this Act, depreciated to the date of loss at the rate of 5 per centum per annum, plus not to exceed 3 per centum per annum as representing excessive wear and tear by reason of war service; and

(3) in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bareboat charter made, on or after the date of the enactment of this Act, the compensation to be paid to the purchaser, his receivers, and trustees, shall in no event be greater than 15 per centum per annum of the statutory sales price as of such date.

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as adopted by
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date of the enactment of this Act under any charter party shall not exceed 15 per centum per annum of the statutory sales price of the vessel as of such date of enactment; and the liability of the United States under any such charter party for loss of the vessel shall be determined on the basis of the statutory sales price as of the date of the enactment of this Act, depreciated to the date of loss at the rate of 5 per centum per annum, plus not to exceed 3 per centum per annum as representing excessive wear and tear by reason of war service; and

(3) in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bareboat charter made, on or after the date of the enactment of this Act, the compensation to be paid to the purchaser, his receivers, and trustees, shall in no event be greater than 15 per centum per annum of the statutory sales price as of such date.

H. R. 3603
as amended by Senate

ter party made prior to the date of the enactment of this Act shall be limited to 15 per centum per annum of the adjusted purchase price; Provided, That any payments made to the Commission on the original purchase price of the vessel in excess of $33\frac{1}{3}$ per centum of the adjusted purchase price, and interest actually paid to the Commission on the amount of the price adjustment shall, at the option of the applicant, be credited against the amount of charter hire required to be refunded to the United States pursuant to the provisions of this subsection; and

(2) the liability of the United States under any such charter party for loss of the vessel shall be determined on the basis of the adjusted purchase price, depreciated to the date of loss at the rate of 5 per centum per annum; and

(3) in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bareboat charter made, on or after the date of the enactment of this Act, the compensation to be paid to the purchaser, his receivers, and trustees, shall in no event be greater than 15 per centum per annum of the adjusted purchase price; and

(4) if the applicant for an adjustment under this section has received

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date of the enactment of this Act under any charter party shall not exceed 15 per centum per annum of the statutory sales price of the vessel as of such date of enactment; and the liability of the United States under any such charter party for loss of the vessel shall be determined on the basis of the statutory sales price as of the date of the enactment of this Act, depreciated to the date of loss at the rate of 5 per centum per annum; and

(3) in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bareboat charter made, on or after the date of the enactment of this Act, the compensation to be paid to the purchaser, his receivers, and trustees, shall in no event be greater than 15 per centum per annum of the statutory sales price as of such date.

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H. R. 3603
as recommended by
House Committee

H. R. 3603
as adopted by
House of Representatives

H. R. 3603
as amended by Senate

Merchant Ship Sales Act
of 1946

("Tax Section")

payment or has a claim for payment on account of the loss or requisition for title of a vessel built subsequent to January 1, 1935, taking place since May 27, 1941, and before the date of enactment of this Act, the payment or claim for payment on account of such loss or title requisition shall be redetermined or settled in an amount not to exceed the adjusted basis of the vessel in the hands of the owner as of the date of loss or requisition, determined under section 113 (b) of the Internal Revenue Code.

(e) (1) If an adjustment in the purchase price of a vessel is made under this section, the income and excess-profits taxes of the vessel owner under the Internal Revenue Code for the taxable year within which the delivery of the vessel was made to the purchaser and for subsequent taxable years, shall be redetermined. For such purposes of redetermination, the vessel shall be considered as having been acquired at the adjusted purchase price, and the income and deductions attributable to such vessel shall be determined as if this section had been in effect on the date of such delivery.

(e) (2) At the election of the taxpayer, any overpayment of tax resulting from the recomputation required under this subsection for any taxable year may, under rules and regulations prescribed by the Commissioner of Internal Revenue, with

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as recommended by
House Committee

(e) Section 506 of the Merchant Marine Act, 1936, as amended, shall not apply to any vessel with respect to which an adjustment is made under this section.

H. R. 3603
as adopted by
House of Representatives

(d) Section 506 of the Merchant Marine Act, 1936, as amended, shall not apply to any vessel with respect to which an adjustment is made under this section.

H. R. 3603
as amended by Senate

the approval of the Secretary of the Treasury, in lieu of being credited or refunded, be applied as provided in subsection (b) of this section.

(f) Section 506 of the Merchant Marine Act, 1936, as amended, shall not apply with respect to (1) any vessel which is eligible for an adjustment under this section, or (2) any vessel described in clause (1), (2), (3), or (4) of subsection (a) of this section, the contract for the construction of which is made after September 2, 1945, and prior to the date of enactment of this Act.

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of 1946

(d) Section 506 of the Merchant Marine Act, 1936, as amended, shall not apply with respect to (1) any vessel which is eligible for an adjustment under this section, or (2) any vessel described in clause (1), (2), (3), or (4) of subsection (a) of this section, the contract for the construction of which is made after September 2, 1945, and prior to the date of enactment of this Act.

APPENDIX D

(Portion of Record Not Printed.)

Exhibit S-1.

Contract No. McC 42281

INTERIM AGREEMENT FOR ADJUSTMENT OF PRIOR
SALES OF VESSELS TO CITIZENS PURSUANT
TO SECTION 9 OF THE MERCHANT SHIP
SALES ACT OF 1946

THIS AGREEMENT entered into this 30th day of December, 1946, between WATERMAN STEAMSHIP CORPORATION, a corporation organized and existing under the laws of the STATE OF ALABAMA (hereinafter called the "Applicant") and the United States Maritime Commission (hereinafter called the "Commission").

WITNESSETH

1. The Applicant, on the 31st day of May, 1946, filed an application under the provisions of Section 9 of the Merchant Ship Sales Act of 1946 (hereinafter called the "Act") for adjustment in price under said Act of 18 vessels, referred to in this Agreement and the Exhibits hereto annexed (hereinafter called "the war-built vessels"), said application having been filed in the form and manner prescribed by the Commission within 60 days after the date of publication in the Federal Register, pursuant to Section 3(c) of the Act of the pre-war domestic cost of a standard vessel applicable to the type of the war-built vessels referred to herein. Such vessels are treated, for the purposes of this Agreement, except as hereinafter otherwise specifically provided, as if they were sold to Applicant on the date of the enactment of the Act, viz., March 8, 1946, and not before that time, as required by Section 9(b) of the Act.

2. The Commission has found and determined, in order to carry out the policy of the Merchant Ship Sales Act of 1946, that it is necessary to enter into agreements for the interim adjustment in the purchase price of vessels eligible

therefor under Section 9 of the Act, and on September 24, 1946 approved the entering into of such interim agreements with Applicants for adjustment; that the Applicant is, and on March 8, 1946 was, a citizen of the United States and on said date owned 17 of the war-built vessels, and was a party to a contract with the Commission to purchase from it one of the war-built vessels which had not been delivered on said date; that all of the vessels were constructed under contracts between the Commission and the builder entered into prior to September 3, 1945, and were purchased by Applicant from the Commission prior to March 8, 1946 (the date of the enactment of the Act); that the vessels were delivered by their builder subsequent to December 31, 1940, and that the Applicant is lawfully entitled to adjustment in the price of the vessels, pursuant to the provisions of Section 9 of the Act.

Now, THEREFORE, in consideration of the foregoing and the mutual covenants of the parties hereinafter set forth, it is agreed as follows:

PART I.

ARTICLE I. That the adjustment and credits provided for in this interim agreement are interim adjustments in the original cost of the war-built vessels to the Applicant, and interim credits to which the Commission and the Applicant are respectively entitled, pending a final determination with respect to matters hereinafter set forth, and shall be effective as of March 8, 1946.

ARTICLE II. There is annexed hereto and made a part hereof, a tabulation marked "Exhibit A", setting forth with respect to each of the war-built vessels—

(a) The name of the vessel,

(b) The date of the purchase agreement under which the vessel was sold by the Commission to the Applicant,

(c) The date on which the vessel was delivered by the builder to the Commission,

(d) The date on which the vessel was delivered by the Commission to the Applicant under said purchase agreement,

(e) The cost of the vessel to the Applicant,

(f) The amount of cash payments made by the Applicant to the Commission prior to March 8, 1946 on account of the cost of the vessel, and

(g) The amount of the unadjusted mortgage indebtedness to the Commission as of March 8, 1946 on account of the original cost of the vessel.

ARTICLE III. There is annexed hereto and made a part hereof, a tabulation marked "Exhibit B", setting forth with respect to each of the war-built vessels—

(a) The name of the vessel,

(b) The unadjusted statutory sales price of the standard vessel of the type used for the purpose of determining the pre-war domestic cost thereof, as determined by the Commission and published in the Federal Register of April 23, 1946,

(c) The amount subtracted from the unadjusted statutory sales price of such standard vessel because the war-built vessel lacks certain desirable features which are incorporated in the standard vessel, as provided in Section 3(d)(2) of the Act,

(d) The amount added to the unadjusted statutory sales price of such standard vessel because the war-built vessel contains desirable features which are not incorporated in the standard vessel used for the purpose of determining pre-war domestic cost, as provided in Section 3(d)(3) of the Act,

(e) The amount representing normal depreciation for the period beginning with the date of the delivery

of the vessel by the builder to the Commission, and ending with March 8, 1946, as provided in Section 3(d)(4) of the Act,

(f) The adjustment for excessive wear and tear by reason of war service, determined on the basis of the general formula heretofore adopted by the Commission, as provided under Section 3(d)(4) of the Act,

(g) The resulting interim adjusted statutory sales price of the war-built vessel as of March 8, 1946, without regard to the provisions of the last paragraph of Section 3(d) of the Act, providing for the establishment of a minimum statutory sales price of war-built vessels,

(h) The interim adjusted statutory sales price of the war-built vessel as of March 8, 1946, giving effect, where applicable, to the provisions of the last paragraph of Section 3(d) of the Act, providing for the establishment of a minimum statutory sales price of war-built vessels.

ARTICLE IV. There is annexed hereto and made a part hereof, a tabulation marked "Exhibit C", setting forth with respect to each of the war-built vessels—

- (a) The name of the vessel,
- (b) The cost of the vessel to the Applicant,
- (c) The applicable interim adjusted statutory sales price,
- (d) The amount equal to 25 per centum of the interim adjusted statutory sales price of the vessel as of March 8, 1946 to be retained by the Commission, as provided in Section 9(b)(1) of the Act,
- (e) The cash payments made by the Applicant to the Commission prior to March 8, 1946 on account of the cost of the vessel,

(f) That portion of the cash payment set forth in Column (e), which was made on the cost of the vessel in accordance with the provisions of Section 112(f) of the Internal Revenue Code relating to involuntary conversions,

(g) The amount of credit allowable to the Applicant, as of March 8, 1946, on account of the cash payments to the Commission on the original cost of the war-built vessel in excess of 25 per centum of the interim adjusted statutory sales price thereof, as provided in Section 9(b)(1) of the Act,

(h) The amount of the interim adjusted mortgage indebtedness of the Applicant with respect to each of the war-built vessels, as provided under Section 9(b)(3) of the Act, determined for the purpose of this interim agreement.

The Commission has not made a redetermination of the trade-in allowance as required by Section 9(b)(7) of the Act with respect to the steamships WEST KYSKA, LAFAYETTE, ARIZPA and KOFRESI, exchanged by the Applicant upon the original purchase of the war-built vessels WARRIOR, JEAN LAFITTE, AFOUNDRIA and WACOSTA, respectively. Accordingly, it is understood and agreed with respect to the interim adjusted mortgage indebtedness on the war-built vessels WARRIOR, JEAN LAFITTE, AFOUNDRIA and WACOSTA, that for the purposes of this interim agreement, no allowance of credit is being made with respect to the vessels exchanged by the Applicant on the original purchase of said war-built vessels.

It is further agreed that the Commission will make such redetermination of the trade-in allowance as provided in Section 9(b)(7) of the Act as soon as practicable, and that the amount of such allowance shall be credited on the mortgage indebtedness of the four war-built vessels—SS WARRIOR, SS JEAN LAFITTE, SS AFOUNDRIA, and SS WACOSTA—prorated equally over the readjusted unpaid installments on such mortgage indebtedness as of

March 8, 1946. If no mortgage indebtedness is outstanding against such four war-built vessels at the time such redemption of the trade-in allowance is made, or if the amount of outstanding mortgage indebtedness at that time is less than the readjusted trade-in allowance, the amount of such allowance, or the difference between the outstanding mortgage indebtedness against the respective vessels and the amount of such allowance shall be credited on the mortgage indebtedness of such of the war-built vessels as the Applicant may designate. If the Applicant has no outstanding mortgage indebtedness to the Commission at such time, the amount of the readjusted allowance shall be paid to the Applicant.

ARTICLE V. The Applicant's unadjusted mortgage indebtedness to the United States as of March 8, 1946 with respect to the cost of each of the war-built vessels shall be adjusted by the Commission, by giving credit to the Applicant for the amount by which such unadjusted mortgage indebtedness on the applicable war-built vessel, as shown in Column (g) of Exhibit "A", exceeds 75 per centum of the estimated adjusted statutory sales price thereof, as shown in Column (h) of Exhibit "B". Such credits shall be effective as of March 8, 1946 and the amounts thereof shall be prorated equally over the installments of the unadjusted mortgage indebtedness unpaid as of the date of this Agreement. The adjusted mortgage indebtedness on the seven war-built vessels, YAKA, HASTINGS, MADAKET, ANDREW JACKSON, CITY OF ALMA, KYSKA and MAIDEN CREEK, shall be further reduced by the amounts and in the manner provided in Article XI hereof, relating to the application of payments heretofore made to the Commission on the cost of said seven war-built vessels under the provisions of Section 112(f) of the Internal Revenue Code.

PART II.

ARTICLE VI. There is annexed hereto and made a part hereof, a tabulation marked "Exhibit D", setting forth with respect to the war-built vessels—

- (a) The name of the vessel,
- (b) The date of delivery of the vessel to the Applicant, and
- (c) The amount of the cash payments made upon the cost of each vessel in excess of 25 per centum of the statutory sales price thereof, as of March 8, 1946.

ARTICLE VII. There is annexed hereto and made a part hereof, a tabulation marked "Exhibit E", setting forth with respect to the war-built vessels—

- (a) The name of the vessel,
- (b) The cost of the vessel to the Applicant,
- (c) The amount of the allowance of credit, if any, made by the Commission on the exchange of a vessel on the purchase of a war-built vessel,
- (d) The excess of the cost of the vessel to the Applicant over the amount of such allowance of credit,
- (e) An amount equal to interest at the rate of 3½ per centum per annum from the date of the original delivery of the war-built vessel to the Applicant, and ending with March 8, 1946, on the cost of such war-built vessel to the Applicant, less the amount, if any, allowed by the Commission on the exchange of any vessel on the purchase of any of the war-built vessels,
- (f) The amount of any interest on the original mortgage indebtedness accrued for the period ending March 8, 1946, and unpaid as of that date,
- (g) The net amount of interest to be credited to the Applicant under the provisions of Section 9(b)(5) of the Act.

ARTICLE VIII. There is annexed hereto and made a part hereof, a tabulation marked "Exhibit F", with respect to four vessels exchanged by the Applicant on the original purchase of four war-built vessels, and setting forth—

(a) The name of the vessels so exchanged,

(b) The date on which the vessels so exchanged were delivered to the Commission,

(c) The date on which the payment to the Applicant of charter hire on such vessels would have ceased, and

(d) With respect to each vessel so exchanged, the amount that would have been paid by the United States to the Applicant as charter hire for use of the vessel (exclusive of service, if any, required under the terms of the charter) under any charter party made prior to March 8, 1946.

ARTICLE IX. There is annexed hereto and made a part hereof, a tabulation marked "Exhibit G", setting forth with respect to the credits to Applicant provided for in Section 9(b)(8) of the Act—

(a) Taxable year,

(b) Taxable net income as reported by Applicant,

(c) All amounts paid by the United States to Applicant as charter hire for use of the war-built vessels (exclusive of service, if any, required under the terms of the charter) under charter parties between the Applicant and the Commission with respect to such vessels, such charter hire being treated as not having been received or accrued as income for Federal tax purposes, as provided in Section 9(c)(1) of the Act,

(d) The amount of depreciation and amortization treated as not having been allowed or allowable,

(e) Net reduction in taxable net income, as provided in Section 9(c)(1) of the Act,

(f) Adjusted taxable net income,

(g) Federal taxes paid by Applicant,

(h) Federal taxes payable after giving effect to net reduction in taxable net income,

(i) The amount of overpayment of Federal taxes.

ARTICLE X. There is annexed hereto and made a part hereof, a tabulation marked "Exhibit H", setting forth with respect to each of the war-built vessels—

(a) The name of the vessel,

(b) Contract number of charter party under which the vessel was chartered to the United States,

(c) All amounts paid by the United States to Applicant as charter hire for use of the vessel (exclusive of service, if any, required under the terms of the charter) for the period up to, and including, March 7, 1946.

ARTICLE XI. There is annexed hereto and made a part hereof, a tabulation marked "Exhibit I", setting forth with respect to seven of the war-built vessels—

(a) The name of the vessel,

(b) The amount of payments made by Applicant on account of the cost of the vessel under the provisions of Section 112(f) of the Internal Revenue Code, relating to involuntary conversions,

(c) The amount representing 25 per centum of the adjusted statutory sales price of the vessel,

(d) The amount by which the payments, under the provisions of Section 112(f) of the Internal Revenue Code, exceed 25 per centum of the adjusted statutory sales price.

Notwithstanding any other provision of this interim agreement, it is understood and agreed, with respect to the seven war-built vessels upon the cost of which the cash payments shown in said Exhibit "I" have been made under the provisions of Section 112(f) of the Internal Revenue Code relating to involuntary conversions, the amount of such payments which exceeds the 25 per centum of the adjusted statutory sales price of the respective vessels retained by the Commission under the provisions of Section 9(b)(1) of the Act, shall be applied by the Commission to the payment of the adjusted mortgage notes on the respective seven vessels in the order of those first maturing subsequent to March 8, 1946. The application of such funds to the payment of the aforesaid mortgage notes shall be made as of March 8, 1946, but the parties hereto reserve for the final adjustment provided for herein the determination of the interest and the amount thereof, if any, which shall be allowed as a credit upon the payments heretofore made under the provisions of Section 112(f) of the Internal Revenue Code.

ARTICLE XII. There is annexed hereto and made a part hereof, a computation marked "Exhibit J", setting forth—

(a) The total of the cash payments made by Applicant, prior to March 8, 1946, upon the cost of the vessels to the Applicant in excess of 25 per centum of the statutory sales price of the vessel. (See Exhibit "D"),

(b) The total amount equal to interest at the rate of $3\frac{1}{2}$ per centum per annum on the cost of the vessel to Applicant, less the amount of any allowance of credit made by the Commission on a vessel exchanged on the original purchase of the new vessel. (See Exhibit "E"),

(c) The total amount that would have been paid by the United States as charter hire for bareboat use of vessels exchanged by the Applicant on the original purchase of new vessels. (See Exhibit "F"),

(d) The total amount of overpayment of Federal taxes by Applicant, less 10 per cent thereof, credit for which is withheld for the purposes of this interim agreement, as provided in Article XVII. (See Exhibit "G"),

(e) The total amounts paid by the United States to Applicant as charter hire for the use of the vessels. (See Exhibit "H"),

(f) The net credit to the Applicant on account of such interim adjustment.

It is understood and agreed that the Commission shall credit the Applicant with the amounts shown in Items (a), (b), (c) and (d) of said Exhibit "J", aggregating the sum of \$13,229,321.60, and that the Applicant shall credit the Commission with the amount shown in Item (e), representing the total charter hire received by the Applicant from the United States for the use of the vessels for the period ending with March 8, 1946, in the sum of \$13,058,605.36, as required by Section 9 of the Act.

It is further agreed that for the purposes of this interim agreement, the sum of the interim credits in favor of the Applicant exceeds the sum of the interim credits in favor of the Commission by \$170,716.24, after giving effect to the provisions of Article XVII hereof, withholding credit of ten per centum of the overpayment of Federal taxes, as set forth in Exhibit "G". Such amount of \$170,716.24, as shown by Item (f) of said Exhibit "J", shall be credited by the Commission on the adjusted mortgage indebtedness of the Applicant and applied on the unpaid installments thereof with respect to such vessels as may be designated by the Applicant.

PART III.

ARTICLE XIII. It is agreed between the Applicant and the Commission that there shall be a final adjustment in the purchase price of the vessels as soon as practicable after—

(1) there has been a final determination as to the adjustments and credits and the other calculations set forth in the exhibits attached hereto and made a part hereof;

(2) the Commission shall have made a redetermination of the allowance of credit with respect to each of the vessels exchanged by the Applicant on the original purchase of new vessels, and

(3) a final determination has been made as to the overpayment or deficiency in the Federal taxes of the Applicant resulting from the adjustment provided for herein for each of the taxable years, beginning with the first taxable year in which any of the war-built vessels was acquired by the Applicant, and ending with the taxable year 1946, except that if by reason of the carry-over and carry-back provisions of the Internal Revenue laws other taxable years are involved, the tax returns of the Applicant for such taxable years shall have been audited and closed, unless the Applicant shall have waived in writing its rights to any tax adjustment by reason of this agreement, with respect to such other years.

ARTICLE XIV. It is understood and agreed that the adjustment and credits provided for in this interim agreement are based upon the several exhibits annexed hereto and made a part hereof, and that the calculations in each of said exhibits have been computed upon a tentative basis and shall be revised and adjusted between the parties as soon as the amounts can be finally determined in accordance with the provisions of the Act and of this interim agree-

ment. When such final determinations have been made, a final adjustment shall be made in the price of the vessels, and the credits to the Commission and to the Applicant, respectively, giving effect to such final determinations, such final adjustment to be effective as of March 8, 1946.

ARTICLE XV. The Applicant agrees that with respect to any and all of the vessels:

(1) depreciation and amortization allowed, or allowable, with respect to the vessels up to March 8, 1946 for Federal tax purposes, shall be treated as not having been allowable; amounts credited to the Commission under Section 9(b)(6) of the Act shall be treated for Federal tax purposes as not having been received or accrued as income; amounts credited to the Applicant under Section 9(b)(5) and (6) of the Act shall be treated for Federal tax purposes as having been received and accrued as income in the taxable year of the Applicant, 1946;

(2) the liability of the United States for use of the vessels (exclusive of service, if any, required under the terms of the charter) on or after March 8, 1946, under any charter party, shall not exceed 15 per centum per annum of the statutory sales price of the vessel, as of March 8, 1946; and the liability of the United States under any such charter party for the loss of the vessel, shall be determined on the basis of the statutory sales price as of such date, depreciated to the date of loss at the rate of 5 per centum per annum; and

(3) in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bareboat charter made on or after March 8, 1946, the compensation to be paid by the Applicant, its receivers and trustees, shall in no event be greater than 15 per centum per annum of the statutory sales price as of such

date. This Article shall be binding upon the Applicant and any interest affiliated therewith.

ARTICLE XVI. For the purposes of this interim agreement, the credits to the Applicant and to the Commission, respectively, as provided in Article XII hereof, shall be made as of the date of this interim agreement. With respect to payments of principal and interest made by the Applicant on and after March 8, 1946 on the original mortgage indebtedness of the war-built vessels, the Commission shall credit the Applicant with the difference between the amount of such payments and the amount of principal and interest which would have been payable after giving effect, as of March 8, 1946, to the adjustments provided for in Article V hereof. The amount of such credit shall be determined as soon as practicable, and credited upon the Applicant's aggregate mortgage indebtedness, if any, to the Commission on the 18 war-built vessels at the time such determination is made, and shall be credited against such unpaid installments thereof as the Applicant may designate. If no such mortgage indebtedness shall exist at the time said determination is made, the amount of the credit shall be paid by the Commission to the Applicant.

ARTICLE XVII. Applicant agrees that pending final adjustment hereinbefore provided, the Commission shall withhold credit to the Applicant of the sum of \$38,584.80, representing 10 per centum of the overpayment of Federal taxes tentatively determined for the purposes of this agreement. (See Exhibit "G").

ARTICLE XVIII. Applicant and the Commission further agree that when final adjustment and settlement of this agreement is made as herein provided for, such adjustment and settlement shall constitute and become full, final and complete discharge of the respective liabilities of the parties one to the other (1) under the terms of the contracts by virtue of which Applicant acquired from the Commission

title to the war-built vessels herein named, and (2) pursuant to the provisions of the Act.

ARTICLE XIX. The Applicant agrees not to employ any Member of Congress, either with or without compensation, as an attorney, agent, officer or director in connection with this contract.

ARTICLE XX. No Member of or Delegate to Congress, nor Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, except as provided in Section 116 of the Act approved March 4, 1909 (35 Stat. 1109).

IN WITNESS WHEREOF, the parties have executed five original counterparts of this Agreement as of the day and year first above written.

UNITED STATES MARITIME COMMISSION

By (sgd) A. J. WILLIAMS
Secretary

Attest:

(sgd) R. L. McDONALD
Asst. Secretary

WATERMAN STEAMSHIP CORPORATION

By (sgd) W. B. GARNER
Executive Vice President

Attest:

(sgd) STERLING F. STODENMIRE JR.
Asst. Secretary

Approved as to Form:

(sgd) FRANCIS B. GOERTNER
Assistant General Counsel
United States Maritime
Commission.

(sgd) BON GEASLIN
Attorney for Waterman
Steamship Corporation.

EXHIBIT A

**ATTACHED TO AND MADE A PART OF INTERIM AGREEMENT BETWEEN
WATERMAN STEAMSHIP CORPORATION AND THE UNITED STATES MARITIME COMMISSION**

(a) Name of the Vessel	(b) Date of Purchase Agreement	(c) Date of Original Delivery by Builder	(d) Date of Delivery by Commission to Applicant	(e) Cost of Vessel to Applicant	(f) Cash Payments Made by Applicant to Com- mission prior to March 8, 1946 on account of cost of vessel	(g) Unadjusted Mortgage Indebtedness to Commis- sion as of March 8, 1946 on account of original cost
Fairisle	April 22, 1942	July 31, 1942	July 31, 1942	\$ 3,023,805.28	\$ 2,196,184.04	\$ 827,621.24
Fairland	August 27, 1942	Aug. 31, 1942	Aug. 31, 1942	3,036,211.74	2,093,593.38	942,618.36
Raphael Seamus	Oct. 24, 1942	Oct. 30, 1942	Oct. 30, 1942	3,045,258.66	2,106,982.80	938,275.86
Bienville	Feb. 9, 1943	May 31, 1943	May 31, 1943	3,000,000.00	1,583,720.00	1,416,280.00
Asalea City	Feb. 9, 1943	July 2, 1943	July 2, 1943	3,001,657.44	1,622,387.82	1,379,269.62
Warrior	July 16, 1943	July 26, 1943	July 26, 1943	2,991,127.82	423,713.82	2,007,414.00
Jean Lafitte	July 22, 1943	Sept. 10, 1943	Sept. 10, 1943	2,808,924.50	213,404.50	1,919,520.00
Afoundria	July 22, 1943	Nov. 11, 1943	Nov. 11, 1943	2,698,763.77	201,765.77	1,810,098.00
Wacosta	July 22, 1943	Apr. 6, 1944	Sept. 6, 1944	2,660,169.32	198,039.32	1,775,430.00
Yaka	Aug. 14, 1944	Sept. 22, 1944	Sept. 22, 1944	2,615,102.31	728,566.77 5/	1,886,535.54
Hastings	Aug. 14, 1944	Nov. 17, 1944	Nov. 17, 1944	2,642,706.03	729,870.49 5/	1,912,835.54
Madaket	Aug. 14, 1944	Jan. 19, 1945	Jan. 19, 1945	2,641,046.21	732,210.67 5/	1,908,835.54
Andrew Jackson	Aug. 14, 1944	Mar. 23, 1945	Mar. 23, 1945	2,691,194.97	731,959.43 5/	1,959,235.54
City of Alma	Aug. 14, 1944	May 4, 1945	May 4, 1945	2,626,493.54	739,258.01 5/	1,887,235.53
Kyaka	Nov. 2, 1945 1/	Nov. 9, 1945	Nov. 9, 1945	2,442,739.51	638,291.00 5/	1,804,448.51
Maiden Creek	Nov. 2, 1945 2/	Jan. 5, 1946	Jan. 5, 1946	2,417,358.53	638,291.00 5/	1,779,067.53
Fairport	Nov. 2, 1945 3/	Feb. 27, 1946	Feb. 27, 1946	2,450,070.78	306,270.78	2,143,800.00
John B. Waterman	Feb. 27, 1946 4/	Mar. 11, 1946	Mar. 11, 1946	2,788,336.61	749,136.61	2,439,200.00
				<u>\$49,584,567.02</u>	<u>\$16,233,646.21</u>	<u>\$30,737,720.81</u>

1/ Construction Contract No. MCC-13632, entered into by Commission Jan. 21, 1943

2/ Construction Contract No. MCC-13633, entered into by Commission Jan. 21, 1943

3/ Construction Contract No. MCC-13634, entered into by Commission Jan. 21, 1943

4/ Construction Contract No. MCC-34769 entered into by Commission June 19, 1945.

5/ Includes payments made in accordance with the provisions of Section 112 (f) of the Internal Revenue Code relating to involuntary conversions.

EXHIBIT B

ATTACHED TO AND MADE A PART OF INTERIM AGREEMENT BETWEEN WATERMAN STEAMSHIP CORPORATION AND THE UNITED STATES MARITIME COMMISSION

(a) Name of the Vessel	(b) Unadjusted statutory sales price of standard vessel of the general type used for the purpose of determining pre-war domestic cost thereof (Note 1)	(c) Estimated amount subtracted because vessel lacked certain desirable fea- tures which are incorporated in the standard vessel	(d) Estimated Amt. added to unadjusted statutory sales price for desirable fea- tures which are not incor- porated in the standard vessel	(e) Adjustment represented by normal depreciation for period beginning with date of deliv- ery of vessel to builder to and including Mar. 7, 1946	(f) Adjustment for excessive wear & tear by reason of war service determined on the basis of the general formula hereto- fore adopted by the Commission	(g) Resulting adjusted statutory sales price as of Mar. 8, 1946 without regard to provisions of last paragraph of Sect. 3d of the Act	(h) Estimated statutory sales price of vessel giving effect where applicable to provisions of last paragraph of Sect. 3d of the Act
Fairiale	\$ 1,050,000	\$ 6,000.00	\$ 32,500.00	\$ 193,917.46	\$ 48,442.50	\$ 834,140.04	\$ 982,318.00
Fairland	1,050,000	6,000.00	32,500.00	189,493.49	48,442.50	838,564.01	982,318.00
Raphael Semmes	1,050,000	6,000.00	32,500.00	180,645.55	26,912.50	868,941.95	982,318.00
Bienville	1,050,000	6,000.00	20,000.00	147,502.46	26,600.00	889,897.54	971,818.00
Azalea City	1,050,000	6,000.00	32,500.00	144,516.44	26,912.50	905,071.06	982,318.00
Warrior	1,050,000	6,000.00	20,000.00	139,340.27	26,600.00	898,059.73	971,818.00
Jean Lafitte	1,050,000	24,300.00	20,000.00	130,354.38	10,457.00	904,888.62	971,818.00
Alfoundria	1,050,000	14,000.00	20,000.00	122,669.59	10,560.00	922,770.41	971,818.00
Wacosta	1,050,000	6,000.00	20,000.00	102,173.15	10,640.00	951,186.85	971,818.00
Yaka	1,050,000	6,000.00	20,000.00	77,540.82	4,980.58	981,478.60	982,503.49
Hastings	1,050,000	6,000.00	20,000.00	69,378.63	4,204.92	990,416.45	991,365.92
Madaket	1,050,000	6,000.00	20,000.00	60,196.16	4,064.48	999,739.36	1,001,336.28
Andrew Jackson	1,050,000	6,000.00	20,000.00	51,013.70	2,361.02	1,010,625.28	1,011,306.58
City of Alma	1,050,000	6,000.00	20,000.00	44,892.05	1,755.60	1,017,352.35	1,017,953.44
Kyska	1,050,000	6,000.00	20,000.00	17,344.66	-	1,046,655.34	1,046,883.56
Maiden Creek	1,050,000	6,000.00	20,000.00	9,036.71	-	1,054,963.39	1,055,082.19
Fairport	1,050,000	6,000.00	32,500.00	1,327.19	-	1,075,172.81	1,075,172.81
John B. Waterman	1,050,000	6,000.00	32,500.00	-	-	1,075,500.00	1,076,500.00
	<u>\$18,900,000</u>	<u>\$134,300.00</u>	<u>\$435,000.00</u>	<u>\$1,681,342.71</u>	<u>\$252,933.60</u>	<u>\$17,266,423.79</u>	<u>\$18,046,466.33</u>

Note (1). As determined by the Commission and published in Federal Register of April 23, 1946.

EXHIBIT C

ATTACHED TO AND MADE A PART OF INTERIM AGREEMENT BETWEEN
WATERMAN STEAMSHIP CORPORATION AND THE UNITED STATES MARITIME COMMISSION

(a) Name of the Vessel	(b) Cost of the vessel to the applicant	(c) Applicable estimated adjusted statutory sales price	(d) Amount equal to 25% of the adjusted statutory sales price of vessel as of Mar. 8, 1946 to be retained by Commission	(e) Amount of cash payments made by applicant to Commission prior to Mar. 8, 1946 on account of cost of vessel	(f) Cash payments made on cost of the Ves- sels in accordance with the provisions of Section 112 f of the Internal Revenue Code relat- ing to involuntary conversions	(g) Amt. of credit to ap- plicant as of Mar. 8, 1946 on acct. of cash payment to the Commis- sion on original cost of vessel in excess of 25% of the adjusted sta- tutory as provided in Sec. 9(b) of the Act	(h) Amount of adjusted mortgage indebted- ness determined for the purpose of this interim agreement as pro- vided under Sec- tion 9(b)(3) of the Act
Fairisle	\$ 3,023,805.28	\$ 982,318.00	\$ 245,579.50	\$ 2,195,184.04		\$ 1,950,604.54	\$ 736,738.50
Fairland	3,036,211.74	982,318.00	245,579.50	2,093,593.38		1,848,013.88	736,738.50
Raphael Semmes	3,045,258.66	982,318.00	245,579.50	2,105,982.80		1,851,403.30	736,738.50
Blenville	3,000,000.00	971,818.00	242,954.50	1,583,720.00		1,340,765.50	728,263.50
Azalea City	3,001,657.44	982,318.00	245,579.50	1,622,337.82		1,376,808.32	736,738.50
Warrior	2,991,127.82	971,818.00	242,954.50	423,713.82		180,759.32	723,863.50
Jean Lafitte	2,808,324.50	971,818.00	242,954.50	213,404.50		(29,550.00)	723,863.50
Alfoundria	2,698,763.77	971,818.00	242,954.50	201,765.77		(41,188.73)	723,863.50
Macosta	2,660,169.32	971,818.00	242,954.50	198,039.32		(44,915.18)	723,863.50
Yaka	2,615,102.31	982,503.49	245,625.87	722,566.77	\$ 699,164.46 1/	29,402.31	283,339.03 2/
Hastings	2,642,706.03	991,365.98	247,841.49	729,870.49	699,164.46 1/	30,706.03	292,201.52 2/
Madaket	2,641,046.21	1,001,336.28	250,334.07	732,210.62	699,164.46 1/	33,046.21	302,171.82 2/
Andrew Jackson	2,691,194.97	1,011,306.58	252,826.64	731,959.43	699,164.46 1/	32,794.97	312,142.12 2/
City of Alma	2,626,493.54	1,017,953.44	254,488.36	739,258.01	699,164.47 1/	40,093.54	313,737.97 2/
Kyska	2,442,739.51	1,046,883.56	261,720.89	638,291.00	638,291.00 1/	-	408,592.56 2/
Malden Creek	2,417,358.53	1,055,082.19	263,770.55	638,291.00	638,291.00 1/	-	416,791.19 2/
Fairport	2,450,070.78	1,075,172.81	268,793.20	306,270.78		37,477.58	806,379.61
John B. Waterman	2,783,336.61	1,076,500.00	269,125.00	349,136.61		80,011.61	807,375.00
	<u>\$49,580,967.02</u>	<u>\$18,046,460.33</u>	<u>\$4,511,616.57</u>	<u>\$16,233,646.21</u>	<u>\$4,772,404.31</u>	<u>\$ 8,726,233.20</u>	<u>\$10,539,053.32</u>

1/ Column (e) includes the amounts shown in column (f) as cash payments made in accordance with the provisions of Sec. 112 (f) of the Internal Revenue Code

2/ These amounts represent the adjusted mortgage indebtedness after the application of the full amount of cash payments made pursuant to Sec. 112 (f) of the Internal Revenue Code shown in column (f), as provided in Article XI of the Interim Agreement. The portion of these cash payments in excess of 25% on each vessel is indicated in Column (d) of Exhibit "I" hereof.

EXHIBIT D

ATTACHED TO AND MADE A PART OF INTERIM AGREEMENT BETWEEN
WATERMAN STEAMSHIP CORPORATION AND THE UNITED STATES MARITIME COMMISSION

(a)	(b)	(c)
Name of Vessel	Date of Delivery of vessel to applicant	Amount of cash payments made upon the cost of each vessel in excess of 25% of the statutory sales price thereof as of March 8, 1946 (See note)
Fairisle	July 31, 1942	\$ 1,950,604.54
Fairland	Aug. 31, 1942	1,848,013.88
Raphael Semmes	Oct. 30, 1942	1,861,403.30
Blenville	May 31, 1943	1,340,765.50
Azalea City	July 2, 1943	1,376,808.32
Warrior	July 26, 1943	180,759.32
Jean Lafitte	Sept. 10, 1943	(29,550.00)
Afoundria	Nov. 11, 1943	(41,188.73)
Wacosta	April 6, 1944	(44,915.18)
Yaka	Sept. 22, 1944	29,402.31
Hastings	Nov. 17, 1944	30,706.03
Madaket	Jan. 19, 1945	33,046.21
Andrew Jackson	Mar. 23, 1945	32,794.97
City of Alma	May 4, 1945	40,093.54
Kyska	Nov. 9, 1945	-
Maiden Creek	Jan. 5, 1946	-
Fairport	Feb. 27, 1946	37,477.58
John B. Waterman	Mar. 11, 1946	80,011.61
		<u>\$ 8,726,233.20</u>

Note: Cash payments made on the cost of certain vessels designated above by an asterisk (*) in accordance with provisions of Section 112 f of the Internal Revenue Code relating to involuntary conversions in excess of 25% of the adjusted statutory sales price are not included.

EXHIBIT E

ATTACHED TO AND MADE A PART OF INTERIM AGREEMENT BETWEEN
WATERMAN STEAMSHIP CORPORATION AND THE UNITED STATES MARITIME COMMISSION

(a) Name of the Vessel	(b) Cost of Vessel to Applicant	(c) Amount of Allowance of credit made by Commission on exchange of vessel on purchase of any vessel	(d) Excess of the cost of the vessel to applicant over amount of allowance of credit	(e) Amount equal to interest at 3 1/2% per annum from date of delivery of vessel to and including Mar. 7, 1946	(f) Interest accrued and unpaid on original mort- gage indebted- ness up to and including Mar. 7, 1946	(g) Net amount of interest to be credited to applicant
Fairisle	\$ 3,023,805.28		\$ 3,023,805.28	\$ 381,289.40	\$ 2,856.99	\$ 378,432.41
Fairland	3,036,211.74		3,036,211.74	373,828.37	723.10	373,105.27
Raphael Semmes	3,045,258.66		3,045,258.66	357,421.58	11,606.34	345,815.24
Blenville	3,000,000.00		3,000,000.00	290,835.61	13,309.15	277,526.46
Azalea City	3,001,657.44		3,001,657.44	281,785.74	10,051.66	271,734.08
Warrior	2,991,127.82	\$ 560,000.00	2,431,127.82	222,631.35	8,469.64	214,161.71
Jean Lafitte	2,808,924.50	676,000.00	2,132,924.50	185,915.05	33,131.44	152,783.61
Alfoundria	2,698,763.77	686,900.00	2,011,863.77	163,401.91	20,828.52	142,573.39
Wacosta	2,660,167.32	686,700.00	1,973,469.32	132,654.99	27,409.72	105,245.27
Yaka	2,615,102.31		2,615,102.31	133,406.03	30,210.41	103,195.62
Hastings	2,642,706.03		2,642,706.03	120,623.24	20,359.91	100,263.33
Madaket	2,641,046.21		2,641,046.21	104,592.67	8,735.87	95,806.80
Andrew Jackson	2,691,194.97		2,691,194.97	90,320.93	31,186.74	59,134.19
City of Alma	2,626,493.54		2,626,493.54	77,571.49	22,440.01	55,131.48
Kyska	2,442,739.51		2,442,739.51	27,874.00	20,590.49	7,283.51
Maiden Creek	2,417,358.53		2,417,358.53	14,382.39	10,576.92	3,805.47
Fairport	2,450,070.78		2,450,070.78	2,114.44	1,850.13	264.31
	<u>\$46,792,630.41</u>	<u>\$2,609,600.00</u>	<u>\$44,183,030.41</u>	<u>\$2,960,649.19</u>	<u>\$ 274,337.04</u>	<u>\$2,685,282.15</u>

EXHIBIT F

ATTACHED TO AND MADE A PART OF INTERIM AGREEMENT BETWEEN
WATERMAN STEAMSHIP CORPORATION AND THE UNITED STATES MARITIME COMMISSION

(a)	(b)	(c)	(d)
<u>Name of Vessel so exchanged</u>	<u>Date on which vessels so ex- changed were delivered to the Commission</u>	<u>Date on which the payment of charter hire would have ceased</u>	<u>The amount that would have been paid by the United States to the applicant as charter hire for the use of the vessel under any charter party made prior to March 9, 1946</u>
West Kyska	Aug. 25, 1943	Mar. 1, 1946	\$ 314,756.46
Lafayette	Aug. 12, 1943	Mar. 7, 1946	423,963.72
Arizpa	Sept. 23, 1943	Mar. 1, 1946	365,711.99
Kofresi	Sept. 23, 1943	Mar. 7, 1946	<u>365,128.86</u>
			\$ 1,469,563.03

EXHIBIT C

ATTACHED TO AND MADE A PART OF INTERIM AGREEMENT BETWEEN
WATERMAN STEAMSHIP CORPORATION AND THE UNITED STATES MARITIME COMMISSION

(a) Taxable year	(b) Taxable net income re- ported by applicant	(c) s. Amounts paid by United States to applicant as charter hire for use of the ves- sels under charter parties between applicant and the Commission being treated as not having been re- ceived or accrued as income	(d) Amount of depreciation and/or amortization treated as not having been allowed or allowable	(e) Net reduc- tion in taxable net income as provided in Sec. 9(c)(1)	(f) Adjusted taxable net income	(g) Federal taxes paid by applicant	(h) Federal taxes payable after giving effect to net reduc- tion in tax- able net income	(i) The amount of overpay- ment of Federal taxes
Fiscal years ended Sept. 30-								
1942	\$11,133,278.32	\$ 73,406.25	\$ 154,216.01	\$ (80,809.76)	\$11,214,088.08	\$4,872,384.13	\$5,232,506.79	\$(359,622.66)
1943	545,068.40	1,371,582.83	2,152,022.52	(780,439.69)	1,325,508.09	159,718.13	471,880.00	(312,161.87)
1944	3,261,464.56	3,598,450.50	3,581,118.17	17,332.33	3,244,132.23	932,592.63	910,794.09	21,798.54
1945	2,225,627.74	5,277,443.82	4,366,927.48	910,521.34	1,315,106.40	1,313,502.37	514,575.43	798,626.94
Three months ended Oct. 31, 1945*	437,824.84	1,521,369.36	1,046,380.50	474,988.86	(37,164.02)	<u>237,007.07</u>	<u>-</u>	<u>237,007.07</u>
						<u>\$7,515,704.33</u>	<u>\$7,129,856.31</u>	<u>\$ 385,848.02</u>
								<u>38,584.80</u>
								<u>\$ 347,263.22</u>

Less - 10% to be retained by Commission

Amount to be credited to applicant

* Permission granted by Commissioner of Internal Revenue to change from fiscal year to calendar year.

EXHIBIT H

ATTACHED TO AND MADE A PART OF INTERIM AGREEMENT BETWEEN
WATERMAN STEAMSHIP CORPORATION AND THE UNITED STATES MARITIME COMMISSION

(a) Name of the Vessel	(b) Number of charter agreements under which vessel was chartered to the United States	(c) All amounts paid by the United States to applicant as charter hire for use of the vessel (exclusive of service, if any required under the terms of the charter) for the period up to and including March 7, 1946
Fairisle	WSA 2733R WSA 7907	\$ 256,693.30 1,210,357.96
Fairland	WSA 2732R WSA 7908	320,491.85 1,053,041.69
Raphael Semmes	WSA 3411R WSA 7906	173,287.43 1,224,280.47
Blenville	WSA 7559	1,246,412.13
Azalea City	WSA 7554	1,206,737.23
Warrior	WSA 7556	1,173,964.13
Jean Lafitte	WSA 7553	1,050,047.96
Afoundria	WSA 7555	940,027.00
Wacosta	WSA 7557	765,806.27
Yaka	WSA 8723	572,335.15
Hastings	WSA 8884	517,732.52
Madaket	WSA 9148	440,613.36
Andrew Jackson	WSA 9504	386,748.52
City of Alma	WSA 9729	331,969.89
Kyska	WSA 10252	120,345.08
Maiden Creek	WSA 12695	67,713.42
		<hr/> \$13,058,605.36 <hr/>

EXHIBIT I

ATTACHED TO AND MADE A PART OF INTERIM AGREEMENT BETWEEN
WATERMAN STEAMSHIP CORPORATION AND THE UNITED STATES MARITIME COMMISSION

(a) Name of the Vessel	(b) Amount of pay- ments made by Applicant on account of cost of vessel under the provisions of Section 112(f) of the Internal Revenue Code relating to in- voluntary conversions	(c) The amount representing 25% of the adjusted sta- tutory sales price of the vessels	(d) The amount by which the payments under the provisions of Section 112(f) of the Internal Revenue Code exceed 25% of the adjusted statutory sales price
Yaka	\$ 699,164.46	\$ 245,625.87	\$ 453,538.59
Hastings	699,164.46	247,841.49	451,322.97
Madaket	699,164.46	250,334.07	448,830.39
Andrew Jackson	699,164.46	252,826.64	446,337.82
City of Alma	699,164.47	254,488.36	444,676.11
Kyska	638,291.00	261,720.89	376,570.11
Maiden Creek	638,291.00	263,770.55	374,520.45
	<hr/>	<hr/>	<hr/>
	\$4,772,404.31	\$1,776,607.87	\$2,995,796.44
	<hr/>	<hr/>	<hr/>

EXHIBIT J

ATTACHED TO AND MADE A PART OF INTERIM AGREEMENT BETWEEN
WATERMAN STEAMSHIP CORPORATION AND THE UNITED STATES MARITIME COMMISSION

- (a) The total of the cash payments made upon the cost of
vessels to the Applicant in excess of 25% of the
statutory sales price of the vessel, prior to
March 8, 1946 (See Exhibit D) \$ 8,726,233.20
- (b) The total amount equal to interest at the rate of
3½ per annum on the cost of the vessel to
Applicant, less the amount of any allowance of
credit made by the Commission on a vessel
exchanged on the original purchase of the
vessel (See Exhibit E) 2,686,262.15
- (c) The total amount that would have been paid by the
United States as charter hire for bareboat use
of the vessels exchanged by the Applicant on
the original purchase of our vessels (See Exhibit F) 1,469,563.03
- (d) The total amount of overpayment of Federal taxes by
Applicant (See Exhibit G) 347,263.22
\$13,229,321.60
- (e) The total amount paid by the United States to Appli-
cant as charter hire for the use of the vessels
(See Exhibit H) 13,058,605.36
- (f) The net credit to the Applicant on account of such
adjustment \$ 170,716.24
-

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Exhibit S-2.

U. S. DEPARTMENT OF COMMERCE
Maritime Administration
Washington 25, D. C.

ADDRESS REPLY TO
MARITIME ADMINISTRATION
and Refer to File No. 14-64

January 3, 1951

WATERMAN STEAMSHIP CORPORATION
61 ST. JOSEPH STREET
MOBILE 13, ALABAMA

Attention: Mr. C. R. Wade,
Controller

Subject: Adjustments under Section 9 of the
Merchant Ship Sales Act of 1946

Gentlemen:

This will acknowledge the receipt of your letter dated December 21, 1950 transmitting fifteen copies of amended "Exhibit I" with respect to "Readjusted Trade-in Allowance on Vessels" which relates to the figures shown in application for the further adjustment filed with the former Maritime Commission on May 28, 1948.

In accordance with the understanding of the conference held in my office on December 14, 1950, and the revised information furnished by you in connection with the traded-in vessels, we are submitting for your review and concurrence revised Schedules No. I through VII which reflect the final adjustment with respect to each of the 18 vessels involved, before taking into account any overpayment or deficiency in Federal taxes resulting from the application of Section 9(c)(1) of the Act, to be furnished by the Bureau of Internal Revenue.

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We propose to submit our recommendation to the Administrator on the basis of the computations contained in the attached schedules as soon as practicable, therefore, it will be appreciated if you will let us have your concurrence as soon as convenient.

Very truly yours,

L. C. SMITH
/L. C. Smith
Chief
Division of Claims

Enclosures

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Schedules

(Opposite )

WATERMAN STEAMSHIP CORPORATION

SCHEDULE I

DESCRIPTION OF VESSELS COVERED BY APPLICATION No. 2109-D FOR ADJUSTMENT FOR PRIOR SALES TO
CITIZENS UNDER SECTION 9 OF THE MERCHANT SHIP SALES ACT OF 1946

<u>Name of Vessel</u>	<u>Official Number</u>	<u>U.S.N.C. Number</u>	<u>Type</u>	<u>(Non subsidy) Purchase Contract</u>		<u>Date of Orig. Del. to Owner</u>	<u>Construction Contract</u>	
				<u>No.</u>	<u>Date</u>		<u>No.</u>	<u>Date</u>
Fairisle	241970	850	02-SB-A1	WCo-2755	4-22-42	7-31-42	WCo-2662	4-3-42
Fairland	242073	472	"	" 8136	8-27-42	8-31-42	" 1709	8-28-41
Raphael Semmes	242074	473	"	" 8702	10-24-42	10-30-42	" 1710	"
Sienville	243438	478	"	" 13585	2-3-43	5-31-43	" 1715	"
Asalea City	243036	477	"	" 13584	2-3-43	7-2-43	" 1714	"
Warrior	243815	479	"	" 17589	7-16-43	7-26-43	" 1716	"
Jean LaFitte	243814	480	"	" 17823	7-22-43	9-10-43	" 1717	"
Afoundria	244018	482	"	" 17824	7-22-43	11-11-43	" 1719	"
Wacoeta	245169	1602	"	" 17826	7-22-43	4-6-44	" 13622	1-21-43
Yaka	246335	1605	"	" 31164	8-14-44	9-22-44	" 13625	"
Hastings	246617	1606	"	" 31165	"	11-17-44	" 13626	"
Madaket	246992	1607	"	" 31166	"	1-19-45	" 13627	"
Andrew Jackson	247303	1608	"	" 31167	"	3-23-45	" 13628	"
City of Alma	247592	1609	"	" 31168	"	5-4-45	" 13629	"
Zyska	248659	1612	"	" 40637	11-2-45	11-9-45	" 13632	"
Malden Creek	248998	1613	"	" 40638	11-2-45	1-5-46	" 13633	"
Fairport	249072	1614	"	" 40639	11-2-45	2-27-46	" 13634	"
John B. Waterman	249234	2826	"	" 42006	2-27-46	3-11-46	" 34769	6-19-45

WJR/cog
12-1-50

WATERMAN STEAMSHIP CORPORATION

SCHEDULE II

Sheet 1 of 6

ADJUSTMENT FOR PRIOR SALES TO CITIZENS UNDER SECTION 9 OF THE MERCHANT SHIP SALES ACT OF 1946

<u>CREDITS TO OWNER</u>	<u>SS YAKA</u>	<u>SS HASTINGS</u>	<u>SS KADAKET</u>	<u>SS ANDREW JACKSON</u>	<u>SS CITY OF ALMA</u>	<u>SS KYSKA</u>
1. Original purchase price (Sch. III)	\$2,615,102.31	2,642,706.03	2,641,046.21	2,691,194.97	2,626,493.54	2,442,739.51
Less: Original trade-in allowance	-0-	-0-	-0-	-0-	-0-	-0-
Less: Bal. of original stge. at 3-8-46	1,886,535.54	1,412,835.54	1,408,835.54	1,959,235.54	1,887,235.53	1,804,448.51
Cash payments made on original purchase price from general funds	29,402.31	30,706.03	33,046.21	32,794.97	40,093.54	-0-
Cash payments on original purchase price from Sec. 112(f)	699,164.46	699,164.46	699,164.46	699,164.46	699,164.47	638,291.00
Total cash payments to 3-8-46	728,566.77	729,870.49	732,210.67	731,959.43	739,258.01	638,291.00
2. Less: 25% of adjusted statutory sales price (Sch. IV)	244,083.94	246,319.50	248,832.25	251,345.00	253,020.17	261,786.80
Less: Bal. of Sec. 112(f) funds	455,078.52	452,844.96	450,332.21	447,819.46	446,144.30	376,504.29
3. Credit for excess cash payments from general funds	29,402.31	30,706.03	33,046.21	32,794.97	40,093.54	-0-
4. Add: Interest Credit (Sch. III)	103,195.62	100,263.33	95,806.80	59,134.19	55,131.48	7,283.51
5. Add: Charter hire that would have been paid on vessels traded-in (Sch. VI)	-0-	-0-	-0-	-0-	-0-	-0-
6. Total credit to Owner	132,597.93	130,969.36	128,853.01	91,929.16	95,225.02	7,283.51
<u>CREDITS TO MARITIME ADMINISTRATION</u>						
7. Charter hire paid by U. S. Government (Sch. VI)	572,335.15	517,732.52	440,613.36	386,748.52	331,969.83	120,345.08
8. Net credit to Owner before tax adjustment	(\$ 439,737.22)	(386,763.16)	(311,760.35)	(294,819.36)	(236,744.87)	(113,061.57)

SCHEDULE 11
PAGE 2 OF 6

MORTGAGE ADJUSTMENT

	<u>SS YAKA</u>	<u>SS HASTINGS</u>	<u>SS MADAKET</u>	<u>SS ANDREW JACKSON</u>	<u>SS CITY OF ALMA</u>	<u>SS EYKA</u>
9. Adjusted statutory sales price (Sch. IV)	\$ 976,343.75	\$ 963,277.99	995,328.99	1,005,380.00	1,012,080.68	1,047,147.19
10. Less: 25% thereof treated as paid in cash as of 3-8-46	244,085.94	246,319.50	248,832.25	251,345.00	253,020.17	261,786.80
11. Less: Application of remaining Sec. 112(f) funds	455,078.52	452,844.96	450,332.21	447,819.46	446,144.30	376,504.20
12. Less: Readjusted trade-in allowance	-	-	-	-	-	-
13. Adjusted mortgage at 3-8-46	277,179.29	286,113.53	296,164.53	306,215.54	312,916.21	408,856.19
14. Balance of original mortgage at 3-8-46	1,826,535.54	1,912,835.54	1,908,535.54	1,959,235.54	1,927,235.53	1,804,448.51
15. Reduction in mortgage indebtedness	<u>1,609,356.25</u>	<u>1,626,722.01</u>	<u>1,612,671.01</u>	<u>1,653,020.00</u>	<u>1,574,319.32</u>	<u>1,395,592.32</u>

RECAPITULATION

16. Net credit to Owner before tax adjustment	(439,737.22)	(386,763.16)	(311,760.35)	(294,819.36)	(236,744.87)	(113,061.57)
17. Reduction in mortgage indebtedness	<u>1,609,356.25</u>	<u>1,626,722.01</u>	<u>1,612,671.01</u>	<u>1,653,020.00</u>	<u>1,574,319.32</u>	<u>1,395,592.32</u>
18. Total net credit to Owner before tax adjustment	<u>\$1,169,619.03</u>	<u>1,239,958.85</u>	<u>1,300,910.66</u>	<u>1,358,200.64</u>	<u>1,337,574.45</u>	<u>1,282,530.75</u>
19. MEMORANDUM: Excess charter hire on and after 3-8-46 to be refunded by Owner	<u>\$ 18,377.40</u>	<u>17,791.40</u>	<u>22,561.63</u>	<u>35,520.69</u>	<u>35,750.95</u>	<u>8,120.15</u>

*Payments made pursuant to provisions of Section 112(f), Involuntary Conversion, of the Internal Revenue Code.

SCHEDULE II
Sheet 1 of 6

CREDITS TO OWNER

1. Original purchase price (Sch. III)
Less: Original trade-in allowance
Less: Balance of original mtge. at 3-8-46
Cash payments made on original purchase price from general funds
Cash payments made on original purchase price from Sec. 112(f) funds
Total cash payments to 3-8-46
2. Less: 25% of adj. stat. sales price (Sch. IV)
Less: Balance of Sec. 112(f) funds

SS <u>MAIDEN CREEK</u>	SS <u>FAIRISLE</u>	SS <u>FAIRLAND</u>	SS <u>RAFAEL SINNER</u>	SS <u>BIRNVILLE</u>	SS <u>AZALEA CITY</u>
\$2,419,158.53	3,023,805.28	3,036,211.74	3,045,258.66	3,000,000.00	3,001,657.44
-0-	-0-	-0-	-0-	-0-	-0-
<u>1,779,067.53</u>	<u>827,621.24</u>	<u>942,618.36</u>	<u>938,273.66</u>	<u>1,416,280.00</u>	<u>1,379,269.62</u>
1,800.00	2,196,184.04	2,093,593.38	2,106,982.80	1,583,720.00	1,622,387.82
<u>638,291.00</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
<u>640,091.00</u>	<u>2,196,184.04</u>	<u>2,093,593.38</u>	<u>2,106,982.80</u>	<u>1,583,720.00</u>	<u>1,622,387.82</u>
263,864.76	245,932.00	245,932.00	245,932.00	241,942.00	244,567.00
<u>374,426.24</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

3. Credit for excess cash payments from general funds

1,800.00	1,959,252.04	1,847,661.38	1,861,050.80	1,341,778.00	1,377,820.82
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4. Add: Interest credit (Sch. III)

3,805.47	378,432.41	373,105.27	345,815.24	277,526.46	271,734.08
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5. Add: Charter hire that would have been paid on vessels traded-in (Sch. VI)

-0-	-0-	-0-	-0-	-0-	-0-
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6. Total credit to Owner

5,605.47	2,328,684.45	2,220,766.65	2,206,866.04	1,619,304.46	1,649,554.90
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CREDITS TO MARITIME ADMINISTRATION

7. Charter hire paid by U. S. Gov't (Sch. VI)

<u>67,713.42</u>	<u>1,598,089.77</u>	<u>1,526,393.95</u>	<u>1,485,494.56</u>	<u>1,246,412.13</u>	<u>1,206,737.23</u>
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8. Net credit to Owner before tax adjustment

<u>62,107.95</u>	<u>730,594.68</u>	<u>694,372.70</u>	<u>721,371.48</u>	<u>372,892.33</u>	<u>442,817.67</u>
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SCHEDULE II

Sheet 4 of 6

MORTGAGE ADJUSTMENT

9. Adjusted statutory sales price (Sch. IV)
10. Less: 25% thereof treated as paid in cash 3-8-46
11. Less: Application of remaining Section 112(f) funds
12. Less: Readjusted trade-in allowance
13. Adjusted mortgage at 3-8-46
14. Balance of original mortgage at 3-8-46
15. Reduction in mortgage indebtedness

<u>SS</u> <u>MAIDEN CREEK</u>	<u>SS</u> <u>FAIRBORN</u>	<u>SS</u> <u>FAIRLAND</u>	<u>SS</u> <u>RAPHAEL SEMMES</u>	<u>SS</u> <u>BIRDSVILLE</u>	<u>SS</u> <u>AZALEA OIT</u>
31,055,459.05	983,728.00	983,728.00	983,728.00	967,768.00	978,268.00
263,864.76	249,932.00	249,932.00	249,932.00	241,942.00	244,567.00
374,426.24	-0-	-0-	-0-	-0-	-0-
-0-	-0-	-0-	-0-	-0-	-0-
417,168.05	737,796.00	737,796.00	737,796.00	725,826.00	733,701.00
1,779,067.53	827,621.24	942,618.36	938,275.86	1,416,260.00	1,379,269.62
81,361,899.48	89,825.24	204,822.36	200,479.86	690,454.00	645,568.62

RECAPITULATION

16. Net credit to Owner before tax adjustment
17. Reduction in mortgage indebtedness
18. Total net credit to Owner before tax adj't.
19. MEMORANDUM: Excess charter hire on and after 3-8-46 to be refunded by Owner

(62,107.95)	730,594.68	694,372.70	721,371.48	372,892.33	442,817.67
1,361,899.48	89,825.24	204,822.36	200,479.86	690,454.00	645,568.62
1,299,791.53	820,419.92	899,195.06	921,851.34	1,063,346.33	1,088,386.29
25,887.67	8,031.39	7,342.47	57,526.71	54,083.59	(879.50)

* Payments made pursuant to provisions of Section 112(f)
Involuntary Conversion, of the Internal Revenue Code.

WJH/cag
12-1-50

CREDITS TO OWNER

1. Original purchase price (Sch. III)
Less: Original trade-in allowance
Less: Bal. of original mortgage
at 3-8-46
Cash payments made on original
pur. price from general funds
Cash payments made on orig. pur.
price from Sec. 112(f) funds
Total cash payments to 3-8-46
2. Less: 25% of adj. stat. sales Fr. (Sch. IV)
Less: Bal. of Sec. 112(f) funds
3. Credit for excess cash payments
from general funds
4. Add: Interest Credit (Sch. III)
5. Add: Charter hire that would have been
paid on vessels traded-in (Sch. VI)
6. Total credit to Owner

	SS JOHN B.	SS	SS	SS	SS	SCHEDULE II Sheet 5 of 6
	SS FAIRPORT	WATERMAN	SS WARRIOR	JEAN LAPITTE	AFONDRIA	WAGGERSA
	\$2,450,070.78	2,788,336.61	2,991,127.82	2,808,924.50	2,698,763.77	2,660,169.32
	-0-	-0-	560,000.00	676,000.00	686,900.00	686,700.00
	<u>2,450,070.78</u>	<u>2,788,336.61</u>	<u>2,431,127.82</u>	<u>2,132,924.50</u>	<u>2,011,863.77</u>	<u>1,973,469.32</u>
	306,270.78	349,136.61	423,713.82	213,404.50	201,765.77	198,039.32
	-0-	-0-	-0-	-0-	-0-	-0-
	<u>306,270.78</u>	<u>349,136.61</u>	<u>423,713.82</u>	<u>213,404.50</u>	<u>201,765.77</u>	<u>198,039.32</u>
	268,918.05	269,250.00	241,942.00	241,942.00	241,942.00	241,942.00
	-0-	-0-	-0-	-0-	-0-	-0-
	<u>268,918.05</u>	<u>269,250.00</u>	<u>241,942.00</u>	<u>241,942.00</u>	<u>241,942.00</u>	<u>241,942.00</u>
	37,352.73	79,886.61	181,771.82	(28,537.50)	(40,176.23)	(43,902.68)
	264.31	-0-	214,161.71	152,783.61	142,573.39	105,245.27
	-0-	-0-	322,103.23	431,736.34	372,717.86	368,567.15
	<u>37,617.04</u>	<u>79,886.61</u>	<u>718,036.76</u>	<u>555,982.45</u>	<u>475,115.02</u>	<u>429,903.74</u>

CREDITS TO MARITIME ADMINISTRATION

7. Charter hire paid by U. S. Gov't. (Sch. VI)
8. Net credit to Owner before tax Adjustm't.

	-0-	-0-	1,173,954.13	1,050,047.96	940,027.00	765,806.27
	<u>37,617.04</u>	<u>79,886.61</u>	<u>(853,927.37)</u>	<u>(494,065.51)</u>	<u>(464,911.98)</u>	<u>(335,536.53)</u>

WATERMAN STEAMSHIP CORPORATION

SCHEDULE 11
Sheet 6 of 6

DETERMINATION OF READJUSTED TRADE-IN ALLOWANCE PURSUANT TO SECTION 9 (b)(7) OF THE ACT

<u>MORTGAGE ADJUSTMENT</u>	<u>SS FAIRPORT</u>	<u>SS JOHN B. WATERMAN</u>	<u>SS WARMIOR</u>	<u>SS JEAN LAFITTE</u>	<u>SS APOURVIA</u>	<u>SS YACOSTA</u>	<u>TOTAL</u>
9. Adjusted stat. sales price (Sch. IV)	\$1,075,672.19	1,077,000.00	967,768.00	967,768.00	967,768.00	967,768.00	17,997,981.84
10. Less: 25% thereof treated as paid in cash 3-8-46	268,918.05	269,250.00	241,942.00	241,942.00	241,942.00	241,942.00	1,499,495.47
11. Less: application of remaining Sec. 112(f) funds	-0-	-0-	-0-	-0-	-0-	-0-	3,003,149.89 ^{OK}
12. Less: Readjusted trade-in allowance	-0-	-0-	75,320.00 ^{OK}	52,025.00 ^{OK}	79,236.00 ^{OK}	104,975.44 ^{OK}	312,557.44
13. Adjusted mortgage at 3-8-46	806,754.14	807,750.00	649,506.00	673,801.00	646,550.00	620,849.56	10,182,779.04
14. Balance of original mortgage 3-8-46	2,143,802.00	2,439,200.00	2,007,414.00	1,919,520.00	1,810,895.00	1,775,410.00	10,737,729.81 ^{OK}
15. Reduction in mortgage indebtedness	<u>1,337,045.86</u>	<u>1,631,450.00</u>	<u>1,357,908.00</u>	<u>1,245,719.00</u>	<u>1,164,308.00</u>	<u>1,154,560.44</u>	<u>20,554,941.77</u>
<u>RECAPITULATION</u>							
16. Est credit to Owner before tax adjustment	37,617.04	79,886.61	(455,927.37)	(494,065.51)	(464,911.98)	(335,896.53)	(516,243.36)
17. Reduction in mortgage indebtedness	<u>1,337,045.86</u>	<u>1,631,450.00</u>	<u>1,357,908.00</u>	<u>1,245,719.00</u>	<u>1,164,308.00</u>	<u>1,154,560.44</u>	<u>20,554,941.77</u>
18. Total net credit to Owner before tax adjustment	<u>\$1,374,662.90</u>	<u>1,711,336.61</u>	<u>901,980.63</u>	<u>751,653.49</u>	<u>699,396.02</u>	<u>818,663.91</u>	<u>20,038,698.51</u>
19. MEMORANDUM: Excess charter hire on and after 3-8-46 to be refunded by Owner	<u>-0-</u>	<u>-0-</u>	<u>29,582.97</u>	<u>8,898.18</u>	<u>12,950.66</u>	<u>26,829.02</u>	<u>368,377.38</u> ^{OK}

Payments made pursuant to provisions of Section 112(f)
Involuntary Conversion, of the Internal Revenue Code.

NATHAN STEAMSHIP CORPORATION

SCHEDULE III
Sheet 1 of 3

DETERMINATION OF CREDIT TO APPLICANT FOR AN AMOUNT EQUAL TO INTEREST AT 3 1/2 PER CENTUM PER ANNUM FROM DATE OF DELIVERY TO MARCH 8, 1946 PURSUANT TO SECTION 9(b)(5)

	SS <u>FAIRISLE</u>	SS <u>FAIRLAND</u>	SS <u>NAPHAEL SNOWES</u>	SS <u>BLENVILLE</u>	SS <u>AZALEA CITY</u>	SS <u>MARRION</u>
Original purchase price	\$3,023,805.28	3,036,211.74	3,045,258.66	3,000,000.00	3,001,657.44	2,991,127.82
Less original trade-in allowance	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>560,000.00</u>
Original purchase price less orig. trade-in allowance	<u>\$3,023,805.28</u>	<u>3,036,211.74</u>	<u>3,045,258.66</u>	<u>3,000,000.00</u>	<u>3,001,657.44</u>	<u>2,431,127.82</u>
Date of delivery	7-31-42	8-31-42	10-30-42	5-31-43	7-2-43	7-26-43
Number of days from delivery to March 8, 1946	1315	1284	1224	1011	979	955
Daily rate of interest at 3 1/2 per annum on the original purchase price less original trade-in allowance	\$ 289.9563	291.14360	292.01111	287.67124	287.83017	233.12125
Amount of interest credited to Owner	\$ 381,289.40	373,828.37	357,421.58	290,835.61	281,785.74	222,631.35
Less interest on the original mortgage indebtedness accrued to March 8, 1946 and unpaid	<u>2,856.99</u>	<u>723.10</u>	<u>11,606.34</u>	<u>13,309.15</u>	<u>10,051.66</u>	<u>8,469.64</u>
Net interest credit to Owner	<u>\$ 378,432.41</u>	<u>373,105.27</u>	<u>345,815.24</u>	<u>277,526.46</u>	<u>271,734.08</u>	<u>214,161.71</u>

KJA/cag/b
12-1-90

SCHEDULE III
Sheet 2 of 3

	SS <u>JEAN LAFITTE</u>	SS <u>ATOUNERIA</u>	SS <u>MACOSTA</u>	SS <u>IAXA</u>	SS <u>HASTINGS</u>	SS <u>MATAKET</u>
Original purchase price	\$2,808,924.50	2,698,763.77	2,660,169.32	2,615,102.31	2,642,706.03	2,641,046.21
Less: Original trade-in allowance	<u>676,000.00</u>	<u>686,900.00</u>	<u>686,700.00</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Original purchase price less original trade-in allowance	<u>2,132,924.50</u>	<u>2,011,863.77</u>	<u>1,973,469.32</u>	<u>2,615,102.31</u>	<u>2,642,706.03</u>	<u>2,641,046.21</u>
Date of delivery	9-10-43	11-11-43	4-6-44	9-22-44	11-17-44	1-9-45
Number of days from date of delivery to March 8, 1946	909	847	701	532	476	413
Daily rate of interest at 3 1/2 per annum on the original trade-in allowance	204.52701	192.91845	189.23679	259.76324	253.41017	253.25101
Amount of interest credited to Owner	185,915.05	163,401.91	132,654.99	133,406.03	120,623.24	104,592.67
Less: Interest on the original mortgage indebtedness accrued to March 8, 1946 and unpaid	<u>33,131.44</u>	<u>20,828.52</u>	<u>27,409.72</u>	<u>30,210.41</u>	<u>20,359.91</u>	<u>8,785.87</u>
Net interest credit to Owner	<u>\$ 152,783.61</u>	<u>142,573.39</u>	<u>105,245.27</u>	<u>103,195.62</u>	<u>100,263.33</u>	<u>95,806.80</u>

NJA/cog
12-1-50

SCHEDULE III
Sheet 3 of 3

	SS ANDRE JACKSON	SS CITY OF ALMA	SS KYSKA	SS MAIDEN CREEK	SS FAIRPORT	SS JOHN B. WATERMAN	TOTAL ALL VESSELS
Original purchase price	\$2,691,194.97	2,626,493.54	2,442,739.51	2,419,158.53	2,450,070.78	2,788,336.61	49,582,767.02
Less:							
Original trade-in allowance	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>2,609,600.00</u>
Original purchase price less orig. trade-in allowance	<u>\$2,691,194.97</u>	<u>2,626,493.54</u>	<u>2,442,739.51</u>	<u>2,419,158.53</u>	<u>2,450,070.78</u>	<u>2,788,336.61</u>	<u>46,973,167.02</u>
Date of delivery	3-23-45	3-4-45	11-7-45	1-5-46	2-27-46	3-11-46	
Number of days from delivery to March 8, 1946	350	308	119	62	9	-0-	
Daily rate of interest at $3\frac{1}{2}\%$ per annum of the original pur- chase price less original trade-in allowance	258.05980	251.85555	234.23530	231.97410	234.93830	-0-	
Amount of interest credited to Owner	90,320.93	77,571.49	27,874.00	14,362.39	2,114.44	-0-	2,960,649.19
Less interest on the original mortgage indebtedness accrued to March 8, 1946 and unpaid	<u>31,186.74</u>	<u>22,440.01</u>	<u>30,590.49</u>	<u>10,576.92</u>	<u>1,850.13</u>	<u>-0-</u>	<u>274,387.04</u>
Net interest credit to Owner	<u>\$ 59,134.19</u>	<u>55,131.48</u>	<u>7,283.51</u>	<u>3,805.47</u>	<u>264.31</u>	<u>-0-</u>	<u>2,686,262.15</u>

RJA/ccg/b
12-1-50

WATERMAN STEAMSHIP CORPORATION

SCHEDULE IV

Sheet 1 of 3

**UNADJUSTED STATUTORY SALES PRICE ADJUSTED FOR DESIRABLE FEATURES, LACK OF STANDARD FEATURES
AND DEPRECIATION**

	<u>SS FAIRISLE</u>	<u>SS FAIRLAND</u>	<u>SS RAPHAEL SEMMES</u>	<u>SS BIENVILLE</u>	<u>SS AZALEA CITY</u>	<u>SS WARRICK</u>
Unadjusted statutory sales price (Standard Vessel)	\$1,050,000.00	1,050,000.00	1,050,000.00	1,050,000.00	1,050,000.00	1,050,000.00
Add - Desirable feature No. 1	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00
2	11,000.00	11,000.00	11,000.00	-	-	-
3	-	-	-	7,300.00	7,300.00	7,300.00
4	12,500.00	12,500.00	12,500.00	-	12,500.00	-
Deduct - Lack of standard feature No. 1	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00
2	-	-	-	2,300.00	2,300.00	2,100.00
Price adjusted for features	\$1,077,000.00	1,077,000.00	1,077,000.00	1,058,500.00	1,071,000.00	1,058,500.00
Depreciation - Normal	194,007.52	189,433.97	180,581.91	146,595.00	143,631.37	138,475.00
War-Service	48,465.00	48,465.00	24,232.50	23,816.25	24,097.50	21,816.25
Total depreciation	\$ 242,472.52	237,898.97	204,814.41	170,411.25	167,728.87	162,291.25
Price adjusted for features and depreciation	\$ 834,527.48	839,101.03	872,185.59	888,088.75	903,271.13	896,208.75
Price Floor - Standard Vessel	\$ 957,818.00	957,818.00	957,818.00	957,818.00	957,818.00	957,818.00
Add - Price floor desir. feat. No. 1	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00
2	10,030.00	10,010.00	10,010.00	-	-	-
3	-	-	-	6,650.00	6,650.00	6,650.00
4	10,500.00	10,500.00	10,500.00	-	10,500.00	-
Deduct - Lack of std. feat. No. 1	8,600.00	8,600.00	8,600.00	8,600.00	8,600.00	8,600.00
2	-	-	-	2,100.00	2,100.00	2,100.00
Price floor adjusted for features	\$ 981,728.00	983,728.00	983,728.00	967,768.00	978,268.00	967,768.00

*As determined and furnished by the former Bureau of Engineering.

WJR/cog - 12-1-50

SCHEDULE IV
Sheet 2 of 3

	SS JEAN BAPTISTE	SS ALOUINIA	SS MAGGIE	SS YAKA	SS HASTINGS	SS HENDRY
Unadjusted statutory sales price (Standard Vessel)	\$1,050,000.00	1,050,000.00	1,050,000.00	1,050,000.00	1,050,000.00	1,050,000.00
Add - desirable feature No. 1	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00
2						
3	7,300.00	7,300.00	7,300.00	7,300.00	7,300.00	7,300.00
4						
Deduct - lack of std. feat. No. 1	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00
2	2,300.00	2,300.00	2,300.00	2,300.00	2,300.00	2,300.00
Price adjusted for features	\$1,058,500.00	1,058,500.00	1,058,500.00	1,058,500.00	1,058,500.00	1,058,500.00
Depreciation - Normal	\$ 131,805.00	122,815.00	101,644.99	77,140.00	69,020.00	59,885.00
War-service	10,585.00	10,585.00	10,585.00	5,016.25	4,202.01	1,286.01
Total depreciation	\$ 142,390.00	133,400.00	112,229.99	82,156.25	73,222.01	61,171.01
Price adjusted for features and depreciation	<u>\$ 916,110.00</u>	<u>925,100.00</u>	<u>946,270.01</u>	<u>976,343.75</u>	<u>985,277.99</u>	<u>997,328.99</u>
Price Floor - Standard Vessel	\$ 957,818.00	957,818.00	957,818.00	957,818.00	957,818.00	957,818.00
Add - Price floor desir. feat. No. 1	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00
2						
3	6,650.00	6,650.00	6,650.00	6,650.00	6,650.00	6,650.00
4						
Deduct - lack of std. feat. No. 1	8,600.00	8,600.00	8,600.00	8,600.00	8,600.00	8,600.00
2	2,100.00	2,100.00	2,100.00	2,100.00	2,100.00	2,100.00
Price floor adjusted for features	<u>\$ 967,768.00</u>	<u>967,768.00</u>	<u>967,768.00</u>	<u>967,768.00</u>	<u>967,768.00</u>	<u>967,768.00</u>

As determined and furnished by the former Bureau of Engineering
WR/ocg 12-1-50

SCHEDULE IV
Sheet 1 of 1
SS JOHN B.
WATSON

	SS ANTHONY JACKSON	SS GIFT OF ALMA	SS KYSKA	SS MAIDEN CREEK	FAIRPORT	SS JOHN B. WATSON
Unadjusted statutory sales price (Standard Vessel)	\$1,050,000.00	1,050,000.00	1,050,000.00	1,050,000.00	1,050,000.00	1,050,000.00
Add - Desirable feature No. 1	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00	15,000.00
2	-	-	11,000.00	11,000.00	11,000.00	11,000.00
3	7,300.00	7,300.00	-	-	-	-
4	-	-	-	-	12,500.00	12,500.00
Deduct - Lack of std. feat. No. 1	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00	11,500.00
2	2,300.00	2,300.00	-	-	-	-
Price adjusted for features	\$1,058,500.00	1,058,500.00	1,064,500.00	1,064,500.00	1,077,000.00	1,077,000.00
Depreciation - Normal	50,750.00	44,660.00	17,352.81	9,040.95	1,327.81	-
War-service	2,370.00	1,759.32	-	-	-	-
Total depreciation	\$ 53,120.00	46,419.32	17,352.81	9,040.95	1,327.81	-
Price adjusted for features and depreciation	<u>\$1,005,380.00</u>	<u>1,012,080.68</u>	<u>1,047,147.19</u>	<u>1,055,459.05</u>	<u>1,075,672.19</u>	<u>1,077,000.00</u>
Price Floor - Standard Vessel	957,818.00	957,818.00	957,818.00	957,818.00	957,818.00	957,818.00
Add - Price floor desir. feat. No. 1	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00
2	-	-	10,019.00	10,010.00	10,010.00	10,010.00
3	6,650.00	6,650.00	-	-	-	-
4	-	-	-	-	10,500.00	10,500.00
Deduct - Lack of std. feat. No. 1	8,600.00	8,600.00	8,600.00	8,600.00	8,600.00	8,600.00
2	2,100.00	2,100.00	-	-	-	-
Price floor adjusted for features	<u>\$ 967,768.00</u>	<u>967,768.00</u>	<u>973,228.00</u>	<u>973,228.00</u>	<u>983,728.00</u>	<u>983,728.00</u>

* As determined and furnished
by the former Bureau of Engineering.

WJH/ccg - 12-1-50

NOTES ON RECEIPT OF CONTRIBUTION

RECEIPT

REDEMPTION OF TRADE-IN ALLOWANCE FOR VESSELS IN SECTION 1(b)(7) OF THE ACT

Traded-in vessels	WEST AFRICA	INDONESIA	AFRICA	EUROPE	TOTAL
Type	By Cargo	By Cargo	By Cargo	By Cargo	
Official Number	217224	219338	219800	219408	
Year built	1918	1919	1920	1920	
Deadweight tons (ADE)	8,480	11,194	8,804	8,000	
Date traded-in	8-26-43	8-24-43	8-24-43	9-25-43	
Original Trade-in Allowance	\$560,000.00	676,000.00	686,900.00	686,700.00	2,609,600.00
Reducted Trade-in Allowance	\$ 76,320.00	\$ 52,025.00	\$ 79,236.00	\$ 104,976.44	312,557.44
Allocation of Trade-in Allowance					
New vessels	SS HARRISON	SS JEAN LAZIER	SS ANTONIA	SS MAGNETA	
Allocation of original trade-in allowance to each new vessel (Schedule III)	560,000.00	676,000.00	686,900.00	686,700.00	2,609,600.00
Ratio of original allowances	100%	100%	100%	100%	
Amount of reducted trade-in allowance applied to each new vessel on same basis as original allowances (Schedule II)	\$ 76,320.00	\$ 52,025.00	\$ 79,236.00	\$ 104,976.44	312,557.44

* Statutory ceiling applies

WJ/cag
12-1-50

FAIRMAN STEAMSHIP CORPORATION

SCHEDULE VI
Sheet 1 of 2

CHARTER HIRE (FOR USE OF VESSEL) PURSUANT TO SECTION 9(b)(6) OF THE ACT

Vessel	Type Charter Hire	PERIOD		Amount	Total
		From	To		
Fairisle	Time	7-31-42	6-15-43	\$ 384,731.81	
"	Shareboat	6-15-43	3- 7-46	<u>1,210,357.36</u>	\$ 1,598,089.77
Fairland	Time	8-31-42	10- 3-43	273,352.26	
"	Shareboat	10- 3-43	3- 7-46	<u>1,053,041.69</u>	1,526,393.95
Raphael Semmes	Time	10-30-42	6- 2-43	261,214.09	
"	Shareboat	6- 2-43	3- 7-46	<u>1,224,280.47</u>	1,485,494.56
Nieville	"	5-31-43	"	<u>1,246,412.13</u>	1,246,412.13
Asalea City	"	7- 2-43	"		1,206,737.23
Warrior	"	7-26-43	"		1,173,964.13
Jean LaFitte	"	9-10-43	"		1,090,047.96
Aroundria	"	11-11-43	"		940,027.00
Wacoata	"	4- 6-44	"		765,806.27
Iska	"	9-22-44	"		972,335.15
Hastings	"	11-17-44	"		517,732.52
Madaket	"	1-19-45	"		440,613.36
Andrew Jackson	"	3-23-45	"		386,748.52
City of Alma	"	5- 4-45	"		331,969.89
Kyaka	"	11- 9-45	"		120,345.08
Maiden Creek	"	1- 5-46	"		67,713.42
Fairport	None	"	"		-
John W. Hartman	"	"	"		-
TOTAL					<u>113,430,430.94</u>

WJ/ecg/b
12-1-50

SCHEDULE VI
Sheet 2 of 2

<u>Vessel Traded-In</u>	<u>PERIOD</u>		<u>Total</u>
	<u>From</u>	<u>To</u>	
West Kyska	8-26-43	3-7-46	\$ 322,103.23
LaFayette	8-12-43	3-7-46	431,736.34
Arispa	9-24-43	3-7-46	372,717.86
Kofresi	9-25-43	3-7-46	<u>368,557.15</u>
Total Credit to Applicant			<u>\$1,495,124.58</u>

Charter hire for use that would have been paid on the traded-in vessels has been credited to the new vessels on the same basis that the trade-in allowances were applied to the new vessels as follows (Sch. II):

SS Warrior	\$ 322,103.23
" Jean LaFitte	431,736.34
" Afoundria	372,717.86
" Eacosta	<u>368,557.15</u>
Total	<u>\$1,495,124.58</u>

NATHAN STEAMSHIP CORPORATION

SCHEDULE VII
Sheet 1 of 2

EXCESS CHARTER HIRE OVER THAT REPRESENTING A RATE OF 15 PER CENTUM PER ANNUM OF THE ADJUSTED STATUTORY SALES PRICE ACCRUED AND PAID ON AND AFTER MARCH 8, 1946 IN ACCORDANCE WITH SECTION 9(a)(2) OF THE ACT

Adjustment of charter hire paid on and after March 8, 1946 to date of redelivery

	Redelivery Date	Statutory Sales Price at 3-8-46	Monthly Rate at Which Hire Was Paid	Monthly Rate of Hire at 15% of Stat. Sales Pr.	Excess Monthly Rate Paid	Amount Excess Hire Paid
John	2-2-46	\$ 976,343.75	\$ 32,691.90	\$ 12,204.30	\$ 20,487.60	\$ 18,593.05
Hastings	4-3-46	985,277.99	33,033.83	12,315.98	20,717.85	18,111.42
Madaket	2-27-46	995,328.99	33,013.08	12,441.61	20,571.47	-0-
Andrew Jackson	4-28-46	1,005,380.00	33,639.94	12,567.25	21,072.69	35,982.18
City of Alma	5-1-46	1,012,080.68	32,831.17	12,651.01	20,180.16	36,210.37
Eyeka	3-23-46	1,047,147.19	30,534.24	13,089.34	17,444.90	9,003.82
Malden Creek	4-18-46	1,055,459.05	32,500.00	13,193.24	19,306.76	25,887.67
Fairisle	3-19-46	983,728.00	36,959.72	12,296.60	24,663.12	9,149.22
Fairland	3-18-46	983,728.00	36,139.26	12,296.60	23,842.66	8,460.30
Raphael Semmes	5-18-46	983,728.00	36,884.28	12,296.60	24,587.68	57,900.02
Pienville	5-11-46	967,768.00	37,500.00	12,097.10	25,402.90	54,083.59
Assala City	3-7-46	978,268.00	37,500.00	12,228.35	25,271.65	-0-
Warrior	4-12-46	967,768.00	37,389.10	18,097.10	25,292.00	29,697.70
Jean LaFitte	3-20-46	967,768.00	35,111.19	12,097.10	23,014.09	9,273.88
Afoundria	3-26-46	967,768.00	33,726.56	12,097.10	21,629.46	13,256.77
Uncosta	4-15-46	967,768.00	33,242.50	12,097.10	21,144.40	26,943.33
						<u>1352,554.32</u>

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12-1-50

SCHEDULE VII
Page 2 of 2

Adjustment of charter hire included in Redelivery Obligation Settlement

	<u>Number of days Allowed</u>	<u>Amount of Charter Hire Allowed</u>	<u>Allowance Based on 15% of Stat. Scale Price</u>	<u>Adjustment Due Applicant</u>	<u>Net Amount Due Maritime Administration</u>
Yaka	28	\$ 11,148.78	\$ 11,364.33	\$ 215.65	\$ 18,377.40
Hastings	28	11,161.65	11,481.67	320.02	17,731.40
Mudaket	28	30,389.80	7,826.17	(22,563.63)	22,563.63
Andrew Jackson	24	9,295.02	9,756.51	461.49	35,520.69
City of Alma	21	8,110.62	8,570.04	459.42	35,750.95
Kyaka	24	9,475.20	10,354.87	883.67	8,120.15
Maiden Creek	-	-	-	-	23,887.67
Fairisle	105	41,325.27	42,443.10	1,117.83	8,031.39
Fairland	105	41,325.27	42,443.10	1,117.83	7,342.67
Raphael Semmes	35	13,800.84	14,174.15	373.31	57,526.71
Bienville	-	-	-	-	54,083.59
Asalea City	105	41,196.54	42,076.04	879.50	(879.50)
Warrior	28	11,045.82	11,160.55	114.73	29,582.97
Jean LaFitte	95	37,372.95	37,754.65	381.70	8,898.18
Afoundrin	75	29,468.37	29,774.48	306.11	12,950.66
Macosta	28	11,007.22	11,121.53	114.31	26,829.02
				<u>(815,818.06)</u>	<u>8368,377.38</u>

S U M M A R Y

Amount of excess hire paid after 3-8-46 - - - - \$352,559.32
 Net amount of excess hire allowed in
 Redelivery Obligation Settlement - - - - - 15,818.06
 Total refundable to Administration - - - - - 8368,377.38

WJR/cog
12-1-50

WATZMAN STEAMSHIP CORPORATION

Amounts credited to the Maritime Administration pursuant to section 9(b)(6) of the Merchant Ship Sales Act of 1946 by income-tax taxable years of the Applicant for each of the 18 vessels involved

Fiscal Years Ending September 30

<u>Vessel</u>	<u>1942</u>	<u>1943</u>	<u>1944</u>	<u>1945</u>	<u>1946*</u>	<u>Total</u>
Saka	\$ -	-	9,190.81	392,302.80	170,841.54	572,335.15
Stetings	-	-	-	345,104.11	172,628.41	517,732.52
Madaket	-	-	-	277,316.51	163,296.85	440,613.36
Andrew Jackson	-	-	-	210,952.71	175,795.81	386,748.52
City of Alma	-	-	-	160,400.55	171,569.34	331,969.89
Kyska	-	-	-	-	120,345.08	120,345.08
Maiden Creek	-	-	-	-	67,713.42	67,713.42
Fairisle	74,395.51	443,516.64	443,516.64	443,516.64	193,144.34	1,598,089.77
Fairland	36,523.81	433,671.12	433,671.12	433,671.12	188,856.78	1,526,393.95
Raphael Semmes	-	407,521.73	442,611.36	442,611.36	192,750.11	1,485,494.56
Blenville	-	150,444.39	450,000.00	450,000.00	195,967.74	1,246,412.13
Azalea City	-	110,769.49	450,000.00	450,000.00	195,967.74	1,206,737.23
Warrior	-	81,237.53	448,669.20	448,669.20	195,388.20	1,173,964.13
Jean LaFitte	-	23,895.12	421,334.28	421,334.28	183,484.28	1,050,047.96
Afoundria	-	-	389,059.82	404,718.72	176,248.46	940,027.00
Acosta	-	-	193,177.40	398,910.00	173,718.87	765,806.27
Total	<u>110,919.32</u>	<u>1,651,056.02</u>	<u>3,651,230.63</u>	<u>5,279,508.00</u>	<u>2,737,716.97</u>	<u>13,430,430.94</u>

* To March 7, 1946, at Midnight

The above calculations have been made on the basis of accrual of the expense by the Maritime Administration and do not purport to indicate the method used by Owner in recording the transactions in its books of accounts.

CERTIFICATE.

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

I, WILLIAM J. O'CONNOR, Clerk of said Court, do hereby certify that the attached Exhibits S-1 and S-2 to Plaintiff's Exhibit F, consisting of Forty-One (41) Pages, numbered One (1) to Forty-One (41), both inclusive, are a true and correct photostatic copy of the originals of those Exhibits contained in the transcript of the original record and proceedings had in this court in the case of WATERMAN STEAMSHIP CORPORATION, Plaintiff, versus UNITED STATES OF AMERICA, Defendant, CIVIL ACTION FILE No. 2284, as fully as the same remain on file and of record in my office as such Clerk, and which were filed with the Clerk of the Court of Appeals for the Fifth Circuit at New Orleans, Louisiana, in accordance with the Joint Designation of the Contents of Record on Appeal filed therein.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the seal of the United States District Court for the Southern District of Alabama, at Mobile, Alabama, this the 8th day of February, 1965.

WILLIAM J. O'CONNOR, Clerk,
United States District Court
Southern District of Alabama

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APPENDIX E**Computations****I. Original Purchase Price—Method of Payment (R. 41)**

Cash	\$ 6,449,107.02
Trade-in (4 vessels)	2,609,600.00
Mortgages	40,524,060.00
Total	\$49,582,767.02

II. Original Basis, Adjusted for Vessels Traded in, as of 3/7/46 (R. 42)

Total Cash	\$16,235,446.21
Adjusted basis of 4 vessels traded in	175,876.40
Mortgage indebtedness (3/7/46)	30,737,720.81
Total	\$47,149,043.42

III. Total Credit to Petitioner Under 9(b) (1) and (4) (R. 44)

Total cash paid as down payment and in reduction of mortgage indebtedness through 3/7/46	\$16,235,446.21
Less 25% of statutory sales price	4,499,495.47
Total credit	\$11,735,950.74

IV. Mortgage Adjustment Under 9(b) (2) and (3) (R. 45)

Balance of mortgage indebtedness (as of 3/7/46)	\$30,737,720.81
Statutory Sales Price	\$17,997,981.84
Less 25% Statutory Sales Price	4,499,495.47
Less Readjusted-trade-in allowance (9(b)-(7))	312,557.44
Adjusted mortgage indebtedness (as of 3/8/46)	13,185,928.93
Reduction in mortgage indebtedness	\$17,551,791.88

V. Computation of Net Cash Credit to Petitioner Under 9(b) (8) (R. 47)**Credits in favor of Petitioner**

Cash payments in excess of 25% of statutory sales price (9(b) (1) and (4))	\$11,735,950.74	(R. 44)
Interest (9(b) (5))	2,686,262.15	(R. 45)
Charter hire (9(b) (6))	1,495,124.58	(R. 45-6)
Tax (9(b) (8))	430,205.66	(R. 45)
Total	\$16,347,543.13	

Credits in favor of Maritime

Charter hire (9(b) (6)) (R. 45)	13,430,430.94
Net cash credit to Petitioner	\$ 2,917,112.19

VI. Total mortgage adjustment (R. 48)	
Balance of original mortgage indebtedness as of 3/7/46 (R. 41)	\$30,737,720.81
Reduction in mortgage indebtedness as of 3/8/46 (R. 45)	\$17,551,791.88
Net cash credit of Petitioner applied against mortgage indebtedness (R. 47)	2,917,112.19
Total amount by which mortgage indebtedness reduced under Section 9 as of 3/8/46 (R. 48)	20,468,904.07
Reduced mortgage indebtedness as of 3/8/46 (R. 48)	\$10,182,779.04
VII. Basis of 18 vessels after Section 9 Adjustment (R. 49)	
Basis as of 3/7/46 (R. 41)	\$47,149,043.42
Adjustment in mortgage indebtedness as of 3/8/46 (R. 48)	20,468,904.07
Basis after Section 9 adjustment (as of 3/8/46) (R. 49)	\$26,680,139.35
VIII. Petitioner's Economic Investment in or Tax Cost of Vessels After Section 9 Adjustment (as of 3/8/46) (R. 49)	
Total cash paid as down payment and in reduction of mortgage indebtedness through 3/7/46 (R. 41-2)	\$16,235,446.21
Adjusted basis of 4 vessels traded in (R. 41)	175,876.40
Remaining mortgage indebtedness after Section 9 adjustment*	10,268,836.74
Total	\$26,680,139.35
* Additional cash payment of \$86,037.70 made as of 3/8/46 was outside Section 9 adjustment and had no effect on the basis of the vessels.	
IX. Adjustment in Basis Under Government Contention	
Original basis, adjusted for 4 vessels traded in, as of 3/7/46	\$47,149,043.42
Cash credit to Petitioner (9(b) (1) and (4))	\$11,735,950.74
Mortgage adjustment (9(b) (2) and (3))	17,551,791.88
Reduction in original purchase price	29,287,742.62
Unadjusted basis after Section 9 adjustment (on 3/8/46)	\$17,861,300.80*
* The difference between this figure and the statutory sales price (\$17,997,981.84) is the difference between readjusted trade-in allowance on 4 vessels under 9(b) (7) (\$312,557.44) and the adjusted tax basis of those 4 vessels (\$175,876.40).	

X. Petitioner's Investment in Vessels by Applying Section 9(b) (1) through (3), as Contended by Government

Total Cash paid as down payment and in reduction of mortgage indebtedness through 3/7/46	\$16,235,446.21	
Credit to Petitioner under Section 9(b) (1)	11,735,950.74	
Remaining cash investment		\$ 4,499,495.47
Adjusted mortgage indebtedness under Section 9(b) (2) and (3)		13,185,928.93
Readjusted trade-in allowance on 4 vessels		312,557.44
Total investment		\$17,997,981.84

XI. Petitioner's Investment After Return to It of "Net Cash Credit"

Total cash paid as down payment and in reduction of mortgage indebtedness through 3/7/46	\$16,235,446.21	
Net cash credit to Petitioner under 9(b) (8)	2,917,112.19	
Petitioner's cash investment		\$13,318,334.02
Adjusted mortgage indebtedness under 9(b) (3)		13,185,928.93
Adjusted basis of 4 vessels traded in		175,876.40
Petitioner's total investment		\$26,680,139.35

XII. Computations under H.R. 4486, H.R. 5213, H.R. 1425 and S. 292*

1. Statutory Sales Price	\$17,997,981.84
2. 25% payable in cash	4,499,495.47
3. 75% secured by mortgage	13,498,486.37
4. Total cash paid as down payment and in reduction of mortgage indebtedness through 3/7/46 (R. 41-42)	16,235,446.21
5. 25% cash payment required	4,499,495.47
6. Cash refund	\$11,735,950.74*
7. Mortgage indebtedness (75%)	13,498,486.37
8. Cash refund applied on mortgage	11,735,950.74
9. Remaining mortgage indebtedness	\$ 1,762,535.63*

* Both before adjustment for adjusted value of 4 vessels traded in.

Results — either lines 2, 3 and 6
or lines 4 and 9.

XIII. Computation of Charter Hire Refund to Government Under Senate Amendment of H.R. 3603 (assuming the charter hire rate to be 15% of the original purchase price—See Option I, Clause B (Hire), Part I, Contract No. WSA-8884 (War Shipping Administration—Requisition Bareboat Charter for Dry Cargo and Tank Vessels), Exhibit 59 to Plaintiff's Exhibit G (R. 76, 152 and 153-4) and Exhibit 30 to Plaintiff's Exhibit G (R. 76 and 150)—Petitioner collected 27.1% of the original purchase price in charter hire of the vessels. See line No. 1 and line No. 7 under the column "Total All Vessels," on Sheet 5 of Exhibit B to Addendum No. 1 to Contract No. MCC-42281, Exhibit S-3 to Petitioner's Exhibit F (R. 67).

\$13,430,430.94 (charter hire paid by Government) divided by \$49,582,767.02 (original purchase price) equals 27.1%.

This percentage (27.1%) applied to adjusted purchase price (\$17,997,981.84) will give \$4,875,453.08 as charter allowed under Senate amendment.

Charter hire collected by Petitioner	\$13,430,430.94
Charter allowed by Senate amendment	<u>4,875,453.08</u>
Charter hire to be refunded to Government	\$ 8,554,977.86
Charter hire credited to Government under 9(b) (6) of House bill	13,430,430.74
Charter hire credited to Petitioner under 9(b) (6) of House bill	<u>1,495,124.58</u>
Net charter hire credit to Government under 9(b) (6) of House bill	\$11,935,306.16
Difference between refund to Government under Senate amendment and credit to Government under House bill	\$ 3,380,328.30

XIV. Computations for National Bulk Carriers (214 F. Supp. 585)

1. Statutory sales price (p. 586)	\$5,153,899.31
2. 25% of statutory sales price	1,288,474.83
3. Adjusted trade-in allowance	445,494.34
4. Adjusted mortgage indebtedness	3,419,930.14
5. Actual cash payments through 3/7/46	\$ 896,425.01

Computation of credits to Maritime and National Bulk to
Maritime

6. 9(b) (1) (deficiency in cash payment)	\$ 392,049.82	
7. 9(b) (6) (charter hire paid by Gov't)	1,385,985.30	
8. 9(b) (8) (tax deficiencies under 9(c) (1))	260,510.04	
9. Total		\$2,038,545.16

To National Bulk

10. 9(b) (5) (interest)	\$ 234,821.77	
11. 9(b) (6) (charter on trade-ins)	406,440.31	
12. Total		\$ 641,262.08
13. Net credit to Maritime		1,397,283.08
14. Adjusted mortgage indebtedness (9(b) (3))		3,419,930.14
15. Mortgage indebtedness after all adjustments on 3/8/46		\$4,817,213.22
16. Adjusted trade-in allowance		445,494.34
17. Mortgage indebtedness plus trade-in		\$5,262,707.56
18. Statutory sales price		5,153,899.31
19. Excess of mortgage indebtedness plus trade-in over statutory sales price (without regard to cash pay- ments)		\$ 108,808.25